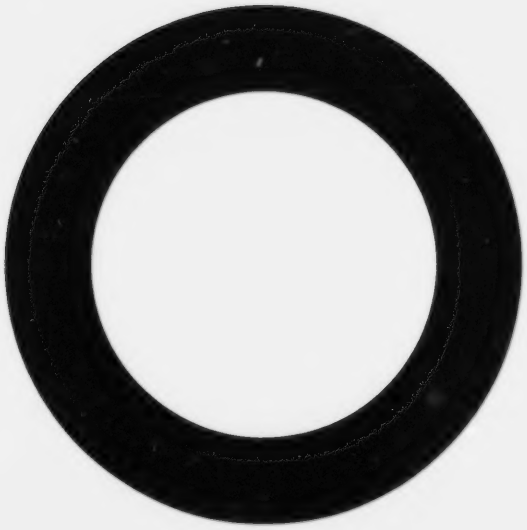

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COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN
(CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Third periodic reports of States parties

ITALY*

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For the initial report submitted by the Government of Italy, see CEDAW/C/5/Add.62; for its consideration by the Committee, see CEDAW/C/SR.172 and 178, and Official Records of the General Assembly, Forty-sixth Session, Supplement No. 38 (A/46/38), paras. 43-83. For the second periodic report submitted by the Government of Italy, see CEDAW/C/ITA/2.

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Articles 1, 2, 4. Actions against discrimination and for advancement of women: from equal opportunities to mainstreaming and empowerment

I. Introductory notes

1. Since the presentation of the Second National Report, Italy has undergone major changes. After developments in the international arena, and the investigation against corruption known as the "Clean Hands" operation, the whole political and institutional scenario was profoundly transformed. Following two early General Elections (1994 and 1996), in 1996 the "Olive Tree" center-left coalition headed by Mr. Romano Prodi won a parliamentary majority and formed a government.

2. The new Cabinet inherited a very difficult financial and economic situation. The public debt was over 120% of GDP, the deficit was 6.8% of GDP, the lira was undervalued and outside the European Monetary System. Inflation rates were over 4%, unemployment had soared to over 12%. The need to rebalance the budget, provide stability, and foster economic recovery, has led to restrictive budgetary policies. This policy has been further accelerated by the government's firm determination to meet the economic criteria set by the Maastricht Treaty, and be among the first entrants in the European Economic and Monetary Union. The results of this action are quite substantial: the lira has re-entered the European Monetary System; inflation has fallen below 2%; the deficit has nearly reached the 3% target. Though there is still debate in Europe as to who will eventually join the single currency, the government is confident targets will be met, and is demanding a new stage in European unity, moving beyond mere monetary union, towards deeper political unity and social cohesion.
This does not mean that all Italian problems have been solved. Far-reaching reforms are needed in the structure of the state, in its institutions and political system, in its economic and social policies. Combining budget re-balancing with adequate standards of social solidarity and equal opportunities for all citizens is a major challenge and will require a very complex effort. Social differences are still wide, and in some cases widening. Poverty is a real and growing problem, which in 1995 affected 10.6% of Italian families. 68% of these families live in Southern Italy. The gap between the North and South of the country is a source of social injustice in the South and deep discontent in the North.

3. The most dramatic feature in this framework is still unemployment. In Northern Italy, unemployment rates equal those of Northern Europe (6.6%), but the number of job seekers is extremely high in the South (21.7%), among young people (33.8%) and among women (16.6%). As described below, however, the data concerning women need to be interpreted taking into account a number of different social and cultural factors as well, and particularly women's increasing role in the workforce.

4. The same complexity is found in all aspects of women's life. Of all the changes that Italy has gone through in the last twenty years, the transformation in women's self-identity, desires, experiences and position in society is one of the most impressive and all-pervasive. Girls are reaching important results in education and skills; women are by now a stable part of the workforce, women's employment rates are rising, especially in the public administration and tertiary sectors; and women are playing an increasingly important role in business, while continuing to provide care for the family and personal relationships.

5. In such a situation, the unprecedented decision taken by the center-left government, to appoint a Minister for Equal Opportunities as one of the members of the new Cabinet, has a significance which goes far beyond the mere concept of equal opportunities. With this choice,

mainstreaming a gender perspective into all government policies has visibly become one of the elements of the transition needed in Italy.

2. Background

6. To better focus the main aspects of this transition we have to take into account the previous experience of Italian women's movements, and their impact on political and institutional developments.

7. Historically, gender difference has been tackled through a mixture of policies aimed at protection and *parity*. In the Italian experience *parity* was meant as equality between women and men. This equality, however, was understood as women's effort to achieve the same positions and behavior models as men. In this way parity denied gender difference. Protection, on the other hand, recognized gender difference, but only as inferiority and disadvantage.

8. The Italian Constitution stated the principle of formal and *de facto* equality among all citizens in article 3: *"All citizens are equal before the law, without any distinctions based on sex, race, language, religion, political opinions, social and personal conditions" (par. 1). "The Republic must remove all economic and social obstacles which, de facto limiting citizens' freedom and equality, prevent the full development of the human person and real participation of all workers in the political, economic and social organization of the country" (par. 2). Furthermore, article 51 states that "Citizens of both sexes can access public posts and elective positions on an equal footing, on the basis of requirements laid down by legislation (par. 1).*

9. After stating this important principle, however, the Italian Constitution contains the contradiction between parity and protection: "Working women have the same rights as men and are entitled to equal pay for equal work. Working conditions must enable women to fulfill their essential family function and must ensure special adequate protection for mothers and children" (art. 37).

10. Despite these contradictions in the basic approach prevailing at the time, the emancipation movement of the post-war period led to many important achievements related to legal equality and motherhood, such as equal pay and maternity rights. The movement was quite strong and included women from the three major cultural and political trends of Italian society, Catholic, Socialist and Communist.

11. In the 1970s Italy witnessed the emergence of a widespread feminist movement. Conflict between this new culture and the experience both of the emancipation movement and of women active in political parties was quite strong. However, the dialogue between these approaches, parallel to the deep changes in lifestyles and mentality occurring in Italian society, led to a season of important changes in legislation and in the social scene.

12. New laws approved in this period included: the Divorce Act (1970), Maternity Act (1971), New Family Law (1975), Establishment of Childcare facilities (1971) and of Healthcare and Social Support Centers for Women and Families (1975), the Abortion Act (1978). Both the Divorce and the Abortion Acts were confirmed by referendums in 1974 and 1981, with a vast majority of votes.

13. The Law on Parity at Work and in Employment was adopted in 1977; it strengthened women's position through the elimination of the most discriminatory wage and legal provisions, recognized the equal value of family care for women and men, and introduced fiscal incentives

to women's employment. This law repealed the most protective measures, but did not change the different retirement age for women (still in force at present) and the provision forbidding night work for women in the manufacturing industry, though with possible waivers through collective bargaining.

14. As described in the 1993 Report, new laws were passed in the early nineties, marking the passage from women's protection to equal opportunities. In 1990 the National Commission on Equality and Equal Opportunities between women and men was officially established as a consultative body under the authority of the Prime Minister's Office. In 1991 new legislation was adopted on positive actions to implement equal opportunities between women and men at work and on employment issues. The main points in the Positive Action Act of 1991 were: the definition of indirect discrimination as a "*prejudicial treatment following the adoption of criteria which may place workers of either sex at a proportionately greater disadvantage and which relate to requirements not essential to the performance of the work in question*"; the possibility of civil action against direct and indirect discrimination at work, with reversal of the burden of proof on employers accused of discrimination; special funds for positive action projects in the workplaces, managed by the National Committee for Equality and Equal Opportunities, under the authority of the Ministry of Labour.

15. The law generalized and strengthened the role of "*equality counselors*" introduced by previous legislation, extending their presence at national, regional and provincial level. Not all Regions have appointed these figures; furthermore, most equality counselors have complained of difficulties in performing their tasks, due to lack of facilities, of staffing, and of adequate means to receive all complaints against discrimination and take effective measures.

16. In 1995, the Labor Committee of the Senate carried out an investigation to monitor the implementation of the Positive Action Act, reporting that some of its basic parts had not been implemented at all. Up to the present time, despite procedures for civil action against discrimination which are very favourable to plaintiffs, the number of civil actions actually taken to court has been statistically irrelevant.

17. The only aspect of this Act which has been implemented concerns the funding of positive action projects, with an allocation of 10 billion liras per year. The Senate Committee Report, however, highlighted a number of problems: a decrease in the number of projects, major imbalances between North and South of the country, vast prevalence of education projects and scarcity of projects submitted by businesses and targeted at changes in work organisation and working time schemes (with positive exceptions at Italtel, Zanussi and ENEL). Despite the concern expressed with such authority by the Senate, no changes have been witnessed since the presentation of its Report. Serious consideration is needed on whether it is the founding principles behind this law, and not only its implementation, that need to be revised.

18. Another equal opportunities law passed in 1992 was aimed at the promotion of women in business (Act 215/92). The Committee responsible for allocating the relative funds was established in 1996, following an initiative by the Minister for Equal Opportunities.

3. Rethinking Positive Actions: legal and political debate

19. In 1993, Parliament adopted a new law for local elections. This provision was incorporated in the act: neither sex should be represented in the electoral lists by a percentage higher than 2/3. In 1995, however, the Italian Constitutional Court repealed this article, because of contrast with the Equality constitutional principle. Since citizens are equal before

the law, without any distinctions based on sex, race, language, religion, political opinions, social and personal conditions, positive actions can be aimed only at removing social and economic disadvantages and giving women equal opportunities, but cannot directly provide results of equal representation, and anyway cannot affect fundamental rights. In this way the Constitutional Court very strictly limited the scope of positive actions, including only the measures aimed at overcoming material disadvantages, while leaving to politics the task of reaching gender-balanced representation within the institutions.

20. Following the difficulties that all these new laws have met, either in their implementation, or in the nature of their basic principles, a debate has started both in women's movements and at institutional level on how to overcome these difficulties and adopt more effective measures.

21. Developments at European level have confirmed the need to rethink and revise the approach to parity and equal opportunities legislation. In 1995 the European Court of Justice (Case C-450/93, Kalanke v. Freie Hansestadt Bremen) declared the illegittimacy of an act issued by Lander Brema, as contrasting E.C. Directive 76/207 on equality. The European Court questioned the basic principles behind the adoption in this act of preferential criteria for the promotion of women at work with arguments not dissimilar from those of the Italian Constitutional Court. More specifically, it argued that positive actions must only rebalance negative effects of social structures on women, and must not substitute a policy aimed at equal opportunities with a policy aimed at directly ensuring equal results.

22. These developments do not directly concern Italy, as Italian policies never adopted either quotas or preferential criteria, except in the above-mentioned case of the electoral law. Even the 1991 legislation introduced the concept of positive actions as a remedy to indirect discrimination, but did not include any preferential criteria. However, Italian gender-based policies in the 1990s were founded on the same principles followed abroad. Women were addressed by special measures as victims of historical discrimination, and therefore were treated as a disadvantaged social group.

23. In the debate about equal opportunities policies, the Italian experience is interpreted in two different ways. In the first interpretation, legislation did adopt the fundamental principle that different groups must be treated in different ways; the reason why quotas or preferential programs were never adopted was only that legislators were too timid or even inconsistent in their own approach. This interpretation would lead to a revision based on the adoption of quotas and preferential systems.

24. In the second interpretation, Italian legislators never intended to abandon the principle of equal treatment of all individuals under the law; the idea of positive actions was considered by them strictly as a remedy against direct or indirect individual discrimination and did not imply preferential treatment addressed specifically to women as a social group. Theoretically men could complain of gender-based discrimination just like women. This interpretation suggests that deeper changes are needed.

4. Gender difference is not a disadvantage

25. In revising Equal Opportunities legislation, the main question is: are women as such to be treated as a disadvantaged or oppressed social group? First, it is necessary to start from facts and basic trends.

26. As previously stated, in recent years Italian employment levels have fallen (from 43%

in 1993 to 41.8 in 1996) and the employment position of women is worse than that of men. Within this general framework, however, while male employment rates have fallen substantially, and particularly among the young (from 80.7% to 76.3 in the 25-34 age group, and from 90 to 87.7% between 35 and 54), the situation is quite different among women. Employment rates have fallen less steeply among young women (from 49.4 to 48.8% in the 25-34 age group) and have actually increased (from 45.4 to 46.9%) between 35 and 54 years of age. On the whole, women's employment rates have risen: from 33.9 to 34.6%. This phenomenon is first of all due to the fact that women's pressure on the labour market has increased: the percentage of unemployed women has risen in all age groups, even those which have witnessed a parallel increase in women's employment, such as the 35-54 age group (from 45.4 to 46.9% employed women; from 6.9 to 8.5% unemployed). Clearly this is due to the fact that only at this time in history women have emerged as a stable part of the workforce.

27. The second reason for women's relatively positive employment trends is due to the fact that women are mainly employed in the tertiary sector, where employment levels are growing, while the heaviest job losses are found in agriculture and industry. Young women have invested in education more than young men: in 1995, 63% of girls had attained high school education, against 55% of young men. This greater educational investment has borne fruits for women, both in terms of jobs and professional positions. Business women have risen between 1993 and 1996 (from 9.8 to 11.8% in industry, and from 24.2 to 25.9% in retail trade), and so have employed women in the transport and credit sectors (from 24.4 to 27%) and in Public Administration (from 52.4 to 54.1%).

28. These facts are a sign of the deep changes affecting Italian women. Their educational levels, their economic independence, their work and professional positions have significantly improved. These results have been achieved at times of great economic difficulty, and of low social pressure from the organized labour movement and women's movement. As in Italy there have never been preferential programs, it is clear that they have been obtained without the aid of this kind of policy. They have been possible because of a number of complex historical, social and cultural factors. Among them, a crucial role has been played by changes in women's subjectivity, by women's new assertiveness in all spheres of their life.

29. One of the reasons why affirmative action is now criticized, concerns precisely the question of subjectivity. It has been argued that preferential treatment often leads the beneficiaries themselves to self-doubt, and identifies members of the entitled social groups as people with low standards of qualification. What is discussed here is not whether this criticism is correct when applied to comprehensive policies towards minorities, which was very important in the recent past, in breaking down major social and cultural barriers. The point is whether they are applicable to women, and to women in Italy, at this specific time in history.

30. Introducing quotas or preferential systems at this time, could imply returning to a false image of women, identifying them with low standards just when these low standards have been surpassed by women themselves, through their own struggle and assertiveness. Even to remove those barriers that are still present in our society, legislation should be aimed at empowering this new assertiveness and desire for change, rather than substitute it with measures from above that leave the situation unchanged except in quantitative terms.

31. Of course this does not mean that there are no women in need, or discriminated against. Many women are weak, and need protection or social relief. Considering all women as a disadvantaged group, however, does not help to understand real disadvantages that some women suffer from, and the way in which they interact with gender difference. Women in Southern Italy, for example, are certainly disadvantaged in terms of their access to healthcare,

employment and public services, both compared to women in other parts of the country and to men in the same area, who are not burdened by the same amount of caring activities. And yet, in terms of education levels, southern girls have reached higher results than both other women and men, thanks to their own assertiveness and possibly even to their greater difficulties in finding a job. Removing their specific disadvantages, therefore, requires more than mere equal opportunities policies. It requires a set of targeted economic and social policies, that will empower these women and enhance their own objective assets and subjective strength, rather than focusing on how much they are discriminated against.

32. Focusing on individual and social advantages and disadvantages, rather than on women's assumed disadvantage as group, implies considering women as individuals, who belong to upper, middle or lower classes, to Northern or Southern Italy, to different age and ethnic groups.

33. Ethnic difference, in fact, is a relatively new reality in Italian society, and a possible factor of substantial disadvantage. As shall be described in the various chapters of this Report, some immigrant women suffer specific forms of both racial and gender discrimination. Equal opportunities policies, however, have seldom been used to defend the rights of these women, and there are no cases in which they have proved to be really effective. Even in the most extreme cases, such as that of protection from violence (see art.3), or of trafficking in women for the purpose of sexual exploitation (see art.6), specific protection measures have proved effective only when very clearly targeted, and combined with specific empowerment efforts, aimed at making it possible for the women concerned to take their destiny into their own hands.

34. Poverty seems to be a factor of disadvantage which affects women more heavily than men; and increasingly so. Out of all poor families, households headed by women were 10.2% in 1994, and became 11.7% in 1995. In the same year, poverty was a problem affecting 14.2% of individuals over the age of 65 living alone and 13.2% of single parents with children under age. In 1994, the respective percentages were lower: 12.8 and 11.8. Both these categories are for the vast majority of cases represented by women.

35. Specific policies targeted at understanding and eradicating the causes of women's greater poverty have not yet been adopted, or even discussed. The ability of equal opportunities policies to perform this task, however, is highly questionable; since the main problem is not direct gender discrimination, but the interaction between women's social position, family roles, and other factors such as age and geographical differences. Once again, the real challenge seems to be focused on mainstreaming a gender perspective into welfare reform, and other social policies targeted at eliminating the social exclusion suffered by these and other disadvantaged groups of people. (see later in this chapter, and art. 3).

36. Exclusion from power and decision-making seems to be the only discrimination universally shared by all women, except a tiny minority. It is highly questionable, however, whether this discrimination can be described and tackled as a "disadvantage". As will be extensively described under articles 7 and 8, many women have taken a step backward from political and decision-making structures out of their own choice, as a form of open or unspoken criticism towards the way in which these structures operate, or towards the content of their decisions. Other women have been excluded because of their positions, or their unwillingness to comply with dominant ideas and practices. In other words, to overcome the democratic deficit shown by women's under-representation in all power structures, policies will have to tackle the very content and practice of decision-making, rather than focusing on discrimination as an isolated factor.

5. Guidelines for revising equal opportunities legislation: towards mainstreaming and empowerment

37. The Beijing Declaration and Platform for Action was a major breakthrough in the discussion about equality and gender difference. The ideas of mainstreaming and women's empowerment have strengthened the new perspective, moving beyond the traditional approach of equal opportunities, as was emerging from the analysis of existing Italian legislation.

38. Mainstreaming a gender perspective into all policies, implies a profound change which goes to the heart of these policies, and the assumption that women are not an oppressed group needing protection, but half of the population, which is reaching high standards of education and skills. In this new perspective, gender difference is the opposite of a disadvantage: it is a valuable asset for the advancement of the whole society.

39. In the 1996 UN World Population Report it is stated that women are necessary to economic development, especially in emerging countries. It is male domination, patriarchal ideology and prohibitions imposed on women in the fields of education, jobs and personal relationships, that hinder the full use of the material and human resources available to society. This is clear when considering some of the unsolved challenges in today's world, particularly on our continent, such as unemployment, welfare reform or environmental protection. It is not women's culture, but male-dominated economic culture, entirely based on monetary values and production-oriented, which is at a disadvantage in coping with the challenge of creating jobs at a time of technological innovation, productivity rises, and high environmental risk.

40. Examining the recent experience of "jobless recovery", economists have argued that employment growth will not result from increased production, but basically from two sources: reduction and reorganization of working time, and development in non traditional sectors like education, services, and environmental protection -- first and foremost in the non-profit sector. Both these policies imply a deep change of perspective on economic issues. They imply a focus on caring of human beings and of living things, rather than on profit-making and financial indicators: precisely that culture and experience that had so long been considered women's "disadvantage" in the labour market. And they require skills and understanding of the relationship between productive and reproductive work: women's skills, so long considered inessential to economic growth.

41. This is a new idea of valuing gender difference, that cannot be identified with equal opportunities policies. There is no continuity between the two approaches, though the best experiences in the implementation of equal opportunities legislation have to be taken into account, such as best practice in the enforcement of the Positive Action Act. Indeed, monitoring projects of positive actions at work funded by special funds established through this law, has proved that the best results are not achieved through preferential criteria, but through relevant changes in the whole work organization. In other words, these projects have proved effective only when they have moved beyond the *equal opportunities* approach, and introduced some elements of mainstreaming and women's empowerment.

42. Since her appointment, the Minister for Equal Opportunities, has realised that these two concepts are the key to tackle the reform of equal opportunities legislation. The effort to adopt effective measures based on these concepts produced a *Prime Minister's Directive* issued on March 7th 1997 indicating to all ministries strategic objectives and actions to implement the Beijing Platform for Action. One significant objective of the Directive is related to gender-sensitive monitoring on the social situation. Over the last years the government and the

National Institute for Statistics (ISTAT) have implemented gender-based statistics. For the first time national data collection has included gender-disaggregated data. Furthermore, ISTAT has developed new social studies which have provided new information about women's health, the division of labor between the sexes and the "use of time[1]", reproductive health issues as risk pregnancies. This method must be extended to all statistical surveys.

43. Specific issues indicated in the Directive are described under the different articles in this Report. To enable mainstreaming of a gender perspective, the Directive has stressed the need for adequate institutional machinery: its features and structures are currently under discussion. Permanent coordination among the activities of all government ministries, and regular monitoring on the gender impact of government policies is essential to avoid the danger of going back to gender-neutral policies.

44. In recent years a network of equal opportunities bodies was developed at local level, attracting many politically active women. These bodies however have often been confined to a merely consultative role, without an effective impact on local government policies. A reform a national mainstreaming machinery is needed at both local and national level.

45. Furthermore, the experience of the Minister for Equal Opportunities has shown that the ideas of mainstreaming and women's empowerment have to proceed together. For this reason, it is necessary to create a specific body, linked to the government but endowed with substantial political and operational independence, capable of establishing direct relations with civil society and women's associations, and of funding research projects and cultural activities, as well as initiatives aimed at women's empowerment.

46. In revising legislation about equal opportunities at work it is also necessary to revise the basic idea of indirect discrimination. Is this idea actually valid to tackle women's problems, especially in the work environment? This was one of the questions discussed in the recent Conference on "The Moving Borders of Inequality", (Florence, 21-22 February 1997), promoted by the National Committee for Equality and Equal Opportunities, under the authority of the Ministry of Labour. In fact, changes in work organisation have highlighted that something new is happening in gender relations at the workplace, related not to discrimination, but to the allocation of decision-making power and to the position of women and men in decision-making. In this challenge, which may amount to a veritable conflict, women are indeed less prepared and strong than men. But this is something different from traditional discrimination.

47. Partly for this reason, it is also necessary to revise legal instruments against discrimination. It is necessary to understand why civil action and judicial protection in general have not proved effective on these issues, and not only in Italy. In other European countries even some strong advocates of positive actions argue that traditional mechanisms of individual litigation are an inadequate basis upon which to enforce the principles against indirect discrimination. To tackle the real problems of gender relations at work, it is necessary to have the means to influence work organisation, rather than the personal situation of the individual female worker. It may be necessary to aim for institutional machinery with the powers of

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1/ The Italian expression corresponding to "use of time", or policies on th use of time", refers to the notion, common in women's and feminist debate, that the "timing" needed to reconcile paid work with caring activities is a crucial factor in women's lives. Policies on these issues are described later in this chapter.

control and impartiality typical of judicial authority, but at the same time entitled to adopt political initiatives on general issues and individual cases. Its structure and tools are currently under discussion.

6. Mainstreaming a gender perspective into welfare reform

48. The main test to value the impact of mainstreaming policies is welfare reform; and gender and social impact of welfare reform is the test of its real value for society, as indicated in the March 7th Directive.

49. At present, the guidelines for welfare reform are under discussion both in the country and within the government, in a context where welfare systems have serious difficulties in every part of the world. The "male breadwinner regime", founded on the traditional division of roles between the sexes, and strongly protecting people who work full-time and for the market, is shaking under the impact of major economic, social, and cultural changes. Financially, it can no longer stand the impact of longer life expectancy after retirement. Socially, it is beginning to shake under the impact of women's presence in the labour market. Culturally, it has lost authority and dynamism: in modern society, the most innovative social actors are not full time adult male workers, but young people and women. If welfare reform is to provide social cohesion and a new sense of citizenship, it should be focused on these innovative actors, and move from the breadwinner regime to a combination of universalism and gender perspective.

50. First, women should be considered as individuals, and not as mothers, spouses, or anyway segments of the family unit, as traditional Italian welfare policies have always classified them. In this model, women's caring was essential but unrecognized, while women's social citizenship depended on the family. Gender-sensitive welfare reform, on the contrary, should be focused on women's individual rights, and should calculate their entitlements fully taking into account their unpaid work and caring activities. Measures at present under discussion with the social partners, such as a Basic Income and a support fund for non-self-reliant people, can respond to this need, provided they are carefully targeted, managed by local communities, and integrated with social support and proactive labour market policies, aimed at empowering people rather than trapping them into dependence from public subsidies. They should respond to specific needs completely overlooked by the present system, such as those of single mothers. Meanwhile, the specific gender impact of pension reform measures should be carefully monitored (see art.11).

51. The new welfare system should not be focused only on monetary transfers, but should include the creation of adequate care-providing and social services. In this perspective, the apparently unsolvable conflict between generations, which would result from merely shifting resources from pensions to support services for young job-seekers, can find new solutions. A recent study promoted by one of the pensioners' unions[2] has calculated that organising a domestic help service for elderly people who need it (42% of those living alone, and 25% of elderly couples) would lead to creating 62.000 new jobs for young people. The cost of this and other services provided for elderly dependent people directly in their homes could be offset by savings in the healthcare system, due to reduced cases of unnecessary hospitalization or domestic accidents. These and other innovative services in the field of care-providing,

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2/ Istituto Studi Terza Età e SPI-CGIL, "Le economie delle relazioni", Laterza 1996.

environmental protection, and prevention of social exclusion, are being developed in the non-profit sector, which in Italy still has vast space for development, since it represents only 1.8% of the workforce, as opposed to 4.2% in France and 6.8% in the USA.[3] The government is preparing draft legislation to support and regulate the non profit sector, currently under discussion.

52. The new welfare system should be characterised by welfare communities or municipalities, rather than by a welfare state. This is in line with the current Italian trend towards greater decentralisation, contemplated by a number of government bills. National guidelines on how to set up and/or reorganise local social relief and care-providing activities are being drafted by the government, and will be ready by the end of the year. They will be based on the most innovative local experiences, which include a comprehensive model of social citizenship, high quality of services (including home-services for the elderly and courses in care-giving for fathers), and a mix of public, private and non profit activities. Regional and municipal authorities will also develop their local social relief plans.

53. To overcome the "*breadwinner regime*", new proactive employment policies should be targeted at diversifying the dominant full-time working pattern. Both working men and women should be given the possibility of choosing between different schemes of shorter working time; otherwise part-time will be, as at present, a new form of segregation for women only. The Welfare Reform Plan which the government is currently discussing with the social partners includes incentives for reductions of working time targeted at employment growth. Measures to introduce working time flexibility and a greater balance between work and personal life are indicated in the March 7th Directive, and refer to both working hours, the possibility of adopting different working time patterns during the different stages of people's lifecycle, and provisions regulating the "use of time" at municipal level. On this issue, the basic law regulating the powers of municipal authorities has recently been amended following a proposal by the Minister for Equal Opportunities. The new provision has given mayors the power to reorganise hours and schedules of all municipal facilities, in order to harmonise them and enhance people's possibility to reconcile different needs related to work, personal life, and access to public services.

54. In short, a gender perspective on welfare reform should not be focused on the conflict between budgetary constraints and protection of basic social rights and entitlements, but on different use of resources: a targeted and truly universalist welfare system, which does not cancel but includes and values gender difference.

Article 3. Human rights and fundamental freedoms

55. In a democratic country like Italy, the enjoyment of human rights and fundamental freedoms is ensured equally for all citizens, with no gender discrimination. The Italian Constitution, written jointly by all the democratic forces which had fought together against fascism, has this as one of its basic principles.

56. Despite this, for decades both legislation, social actors and the judiciary, have systematically underestimated those forms of violence and violation of human dignity which

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3/ Carlo Borzaga, Welfare mix e ruolo delle organizzazioni non profit, Rome 1996.

are specifically targeted against women. In the last decades, a new frontier of human rights and fundamental freedoms has been indicated by women's movements, and by the widespread growth of a new awareness among women. Full control over one's life and body, freedom from violence, freedom of choice in all aspects of public and private life are now considered by most women as an integral part of their fundamental freedom and of the general approach to human rights.

1. Freedom from sexual violence

57. The new law against sexual violence (n.66 of February 15th 1996) is part of this complex path to assert women's freedom. Drafting the new legislation was one of the longest processes in the history of the Italian Parliament. In 1979, after a number of famous rape cases and trials which had shaken public opinion, a number of groups in the women's movement collected 387.000 signatures under the text of a "people's bill"[4] on rape, and deposited it in Parliament. The text was very controversial even among women's groups, but stimulated widespread debate in the country, about a crime which until then had almost always been kept under a cloak of silence. This debate exposed widespread social acceptance of rapists, obsolete legislative provisions and court practices which turned victims of rape into suspects whose lives and habits were systematically investigated and slandered not only by rapists and their lawyers, but often even by judges.

58. Despite this, limits in the suggested text, divisions in the women's movement and most of all lack of interest on the part of politicians, led to twenty years' delay before the law was finally passed. In the course of those years, cases of sexual violence against women not only did not decline, but steadily increased. Between 1992 and 1995, complaints for the crimes now "merged" into the single crime of sexual violence (rape, violent indecent assault, indecent assault) rose from 2755 to 3876.

59. In the early 1980s, self-organised women's support centres began to be created to respond to the needs of women who had been subject to violence. They provided hot lines, counseling, legal aid, and other forms of support to women in need. At present, there are over eighty such centres in various parts of Italy, run by women and wholly or partly funded by local authorities.

60. The new law passed in 1996 is the result of patient negotiations and compromise among women Members of Parliament across the whole political spectrum, from the extreme right to the extreme left, without any mediation by party leaders or male colleagues. Some points in the new legislation were criticised by groups within the feminist movement, but all welcomed the most important change which it introduced: the classification of sexual violence as a crime against the person and no longer as an offence against public morality, as in the previous legislation, passed in the years of fascism.

61. Other points introduced by the new law were: there is no difference between rape and "violent indecent assault", but one single crime of "sexual violence", defined on the basis of lack of consent on the victim's part and no longer according to the nature of the acts committed; the victim can decide whether or not to press charges, but if a charge is pressed prosecution will continue even if the charge is subsequently withdrawn by the injured party; questions on the private life or sexuality of the victim are not admissible in investigation and

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4/ A procedure which allows citizens to directly introduce a bill into the Italian parliamentary system for debate and enactment.

court proceedings; punishment is more severe, particularly in cases of violence against children; sexual acts committed on persons under fourteen (sixteen if the person who commits them is a parent or person to whom the minor is entrusted) are considered sexual violence even if there is consent on the part of the minor concerned, but are not punishable if committed on a minor of at least thirteen years of age by another minor who is not more than three years older.

62. The March 7th Directive demands statistical studies on phenomena related to rape and sexual abuse, and other abusive practices, including those in the family and in the workplace, and a standing observatory on violence against women and children.

2. Freedom from domestic violence

63. Domestic violence is an increasingly serious phenomenon in all industrialised countries, no longer limited to situations of social disruption and extreme poverty, but widespread among all social classes. It is difficult to measure its size, since most cases of domestic violence go unreported, and are hidden by the victims themselves. Between 1992 and 1995, reported cases which have led to legal complaints for domestic violence have risen from 1,907 to 2,097. It is impossible to determine how many of the 1,800,000 domestic accidents reported every year may indeed be cases of battering, as is quite common in cases of broken bones and teeth, bruises, and other similar pathologies usually attributed to falls from ladders, bumping into doors, or slipping on wet floors. Statistical studies and a standing observatory on violence against women and children are demanded by the March 7th Directive.

64. Until now, the only alternative open to women who wished to escape from domestic violence was leaving their homes and finding shelter elsewhere. Shelters for battered women and their children have been created by women's groups in Bologna, Milan, Rome, Venice, Palermo, Merano, Parma, Modena, Reggio Emilia, Livorno. These are managed by the same centres which provide support for women victims of sexual violence.

65. Leaving home, however, adds further suffering to the condition of battered women. For this reason, the Office of the Minister for Equal Opportunities has prepared draft legislation to enable the urgent removal of violent husbands, cohabitants, or other adult relatives from the family home and from the vicinity of places usually frequented by the aggrieved party, such as workplace, home of family of origin, etc. This latter measure intends to relieve victims from the painful daily persecution which often occurs when she has escaped from a violent partner.

66. The removal order can last up to six months and if needed can be prolonged for three more months. It can be applied in those situations where prison custody would not be applicable, as is most common in most cases of domestic violence. It can result from either criminal charges or civil action, and can be justified by serious indications that the defendant is guilty of the reported crime, or, in the civil action, by injury to the health of the woman concerned. Civil action maybe simpler and speedier, and fit the needs of those women who do not really wish to press a criminal charge, but simply wish to be free from a situation of violence. In both cases, measures to ensure the payment of alimony are provided for whenever applicable.

67. This draft legislation has been submitted to the Council of Ministers for approval as a government-initiated bill.

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3. Freedom from racism

68. In recent years Italy has witnessed a resurgence of racism and xenophobia, mainly targeted against immigrants from countries outside the European Union. As in other European countries, campaigns exploit widespread fears related to unemployment growth and possible competition for increasingly scarce jobs, as well as the demand for law and order expressed by the population in areas where the presence of organised crime is a source of insecurity and social disruption and "foreigners" an easy scapegoat on which to lay the blame. Women have frequently been victims of these campaigns. In fact, contrary to what is preached by racists, there is no "foreign invasion". There are about 1,000,000 foreign citizens in Italy, 827,416 of whom are from countries outside the EU. They occupy segments of the labour market which Italians are unwilling to enter, such as heavy industrial work, agriculture, fishing and domestic help. Women are the vast majority of the latter, particularly in Central Italy, where the high presence of domestic workers from the Philippines and the Cape Verde Islands has led to a 48.5% presence of women among immigrants, as opposed to 58.3% of men in industrialised Northern Italy and 60.3% of men in the agricultural and fishing areas of Sicily and Sardinia.

69. Measures to ensure that immigrant women and men are correctly received and integrated in Italian society are among the key tools for eradicating racism and xenophobia. The Italian government has drafted new legislation, now under parliamentary scrutiny, on immigration policies and regulation of entry into and residence in Italy of citizens from outside the European Union. Article 2 of this bill states the very important principle that fundamental human rights are recognized to all foreigners, independently of their nationality or legal status. Access to urgent healthcare treatment, and to all rights related to social protection in the case of pregnancy, is ensured for both registered and unregistered immigrants, and cannot entail any form of reporting to police authorities. Mandatory schooling is ensured to all children, with the same rights as Italian children. As to the right to family reunion, important provisions on this issue were suggested by the Office of the Minister for Equal Opportunities, and included in the government bill. Residence permits for spouses and children under age can be required by immigrants who have had a residence permit for at least two years, and who can provide adequate housing and income for their families.

70. These developments are part of the effort to give a new meaning to the concept of "European citizenship", rethinking traditional links between nationality, country of origin, country of residence, and basic rights. According to the new bill, for foreigners who have a regular residence permit these rights include the right of representation and participation in the public life of their local community, including voting rights in local elections. This provision follows the experience by some Italian municipalities, which have introduced in their representative bodies "additional" local councillors with consultative powers, elected by immigrants among representatives of their communities. Considering the important role of women in local political and community life (see art.7-8), this new experience could prove interesting for immigrant women.

Article 5. Gender stereotypes

71. While women are achieving increasingly important objectives in society, the conventional image of women continues to thrive. This stereotype suggests that the essence of gender diversity lies in submission and disadvantage, and it perpetuates the time-old division of roles between men and women in the sphere of family relationships.

72. One of the main vehicles for the stereotype of women as a disadvantaged social group

consists in the institutional policy towards women. The Office of the Minister for Equal Opportunities has based its work on the idea of converting this stereotype to convey an image of female strength and freedom, and offer a more faithful reflection of the reality of Italian women today.

73. The mass media is a prime source of typically negative female stereotypes. Advertising continues to focus on the image of women as the exclusive targets of all promotional messages relating to the household. This image of a housewife overlaps with another projection of male imagination, namely that of a beautiful and sophisticated woman, the alluring object of male desire. In the last few years a new image of an emancipated, career woman has also made its appearance, but this image almost always has strong masculine overtones, as if a working woman were necessarily one-dimensional. There have been very few cases, and then only in very recent times, in which advertising has represented a woman manager who has kept her role as a mother, or has represented men as the object of female desire.

74. In the vast majority of cases, commercial ads continue to emphasize the more traditional and obsolete aspects of women's lives, either in the patriarchal-family version or in the complementary, emancipation-type model.

75. Neither of these two images faithfully reflect the current reality of women. Women are active agents of change, at least in the young and middle-age groups, in a society in which conventional organizational models in the public and private sphere are irremediably obsolete.

76. The Office of the Minister for Equal Opportunities has promoted a campaign for the promotion of women in business, promoting the value of women's skills as fully in keeping with modern times. The image conveyed is one of flexibility, creativity, the ability to cover several roles and to take advantage of the culture acquired, which goes well beyond that of traditional roles. This image is certainly in line with current trends, and it mirrors a well established reality, borne out by the fact that a global-scale company such as McCann has agreed to invest in this project and provide its services free of charge.

77. The family is another setting in which stereotypes of womanhood are produced. The caring workload is still shared very unequally among couples. Between 70.3% and 56.6% of men, with or without children respectively, dedicate a marginal part of their time to service and caring for their families (1h48' and 1h24'), while women dedicate the better part of their time (7h48'). There appears to be more collaboration in the younger age brackets, but in the older population all housework is performed exclusively by women. The couples tend to hand on to their children an educational message in which traditional role models are heavily emphasized.

78. The transmission of a certain idea of gender roles is largely based on the unequal allocation of domestic chores between sons and daughters. But gender roles are also passed on in different ways. Recent studies by the national statistics institute (ISTAT) indicate that families orient their sons more than their daughters towards technology, and in particular towards information technology.

79. The most relevant changes are to be expected in the next generation, that of the sons and daughters of mothers who are between 40 and 50 years of age, and who experienced the greatest degree of changes in women's attitudes and lifestyles in their youth. The next generation should began to reap the benefits of these changes in experiences and self-perception with greater freedom and mutual respect, both within the couple and in parental relationships with their own children. These changes cannot be induced on an institutional plane. They can

only come about through the full expression of women's freedom. However, institutions may support the process of societal change, especially through targeted programs in schools.

Article 6, part 1. Measures to suppress all forms of trafficking in women

80. Official figures on the extent of trafficking in women for the purpose of sexual exploitation in Italy do not currently exist. The most comprehensive field study on this dramatic problem was the report prepared in April 1996 for the European Conference on Trafficking in Women,[5] The report described a sharp increase in trafficking in the period 1989-91, during which arrivals from Eastern Europe increased noticeably. Between 1992 and 1994, there was a further rise, particularly in flows from Nigeria and Albania.

81. Albanian victims of trafficking are usually very young girls, unmarried and tricked by so-called lovers, who convince them to move to Italy under promise of marriage or a job, and later force them to become prostitutes by means of heavy physical and psychological violence. The violence continues and regularly accompanies their daily life, in a state of total isolation from any contact except with clients. As to Nigerian victims, they are usually slightly older, and kept in slavery mostly by means of debt bondage, theft of passports and lack of immigration documents, violence, and threats to them and their families. In some cases they were aware of the kind of "job" that awaited them in Italy, but believed it would last only for a short period of time and had no idea of the kind of violence, isolation, and lack of control over their lives, which they would be subject to.

82. In terms of figures, the report attempted an estimate on the basis of extrapolated data from field interviews in seven Italian regions. According to this estimate, foreign prostitutes in Italy are be between 18,800 and 25,100; of these, between 1,453 and 2,216 are assumed to be victims of trafficking.

83. Italian efforts to prevent and combat trafficking in women are coordinated by a specific inter-ministerial commission, set up in early 1997 and including representatives from the Ministries of Social Solidarity, Equal Opportunities, Justice, Home Affairs. Actions are being taken at three different levels: legislative changes, field work, international activities.

a. Revision of legislation.

84. The first problem to be dealt with, concerns the way in which trafficking is covered by the present classification of crimes. The legal definition of slavery and slave trade, which to some extent covers the condition of many victims of trafficking, was created in a very different historical situation, and is not always applicable. The crime of exploitation of prostitution (see part.2 of this article) applies to all cases, but does not cover all aspects of this crime, and particularly the most brutal ones. So the government is now examining the possibility of introducing a specific definition of the crime of trafficking into our Criminal Code.

85. As to specific draft legislation, the new immigration bill presented by the government and now undergoing parliamentary scrutiny, includes measures to enable investigation and prosecution of trafficking. When a victim of trafficking is in serious danger because of her

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5/ The Report was prepared by Parsec, (Association for Social Research and Intervention), in cooperation with the University of Florence, 1996.

attempts to escape the power of organized crime, or because of her statements in criminal proceedings, she can get a temporary residence permit, lasting six months, and renewable for a year, or as long as required by criminal proceedings. The purpose of such a permit is to enable the victim to escape violence, and to participate in a social integration program. Authorized associations can give her a safe shelter; she has access to healthcare and social services, can get training and education, and find a job. If she gets regular employment, her permit will be renewed for the duration of her contract.

b) Field work

86. Aid to victims of violence is also at the basis of field experiences at local level, which are essential to an effective action to combat and prevent trafficking. Most of these experiences are based on cooperation among local authorities, NGOs, women's associations, trade unions, and the church. Their basic principle is that the greatest leverage to defeat trafficking is the potential will of the women concerned to react to their condition, and fight back for their freedom. They have involved:

- providing victims of trafficking with safe shelters, counselling, legal aid, employment opportunities, healthcare services;
- helping the creation of "self-help" groups among the women concerned;
- training specialised social workers, community volunteers, policemen;
- conducting information campaigns in public opinion
- organising special integrated services at local level

Towns such as Bologna, Rome, Udine, Milan, Ravenna, Turin, Caserta, Florence, Rimini have been engaged in this kind of work.

c) International efforts.

87. In the last two years, we have witnessed a great number of European initiatives[6] aimed at developing cooperation among Member States, and with the women's countries of origin. The most recent such document is the Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (26 April 1997). The Italian government has been actively engaged in the Hague, and will continue to act in close cooperation with other European governments, and in all other international fora[7].

Article 6, part.2 Measures to suppress exploitation of prostitution.

88. In Italy, prostitution is regulated by the "Merlin" law of 1958. This law de-penalised

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6/ Among the most relevant ones: a Resolution on Trafficking in Human Beings adopted by the European Parliament in January 1996; four Joint Actions adopted by the Justice and Home Affairs Council to combat trafficking in human beings (data?); the above-quoted Conference in Vienna (June 1996), followed by a Communication by the European Commission to the Council and to the European Parliament (November 1996).

7/ Italy was one of the sponsors of the resolution on "Traffic in Women and Girls" recently adopted by the UN Commission on the Status of Women.

voluntary prostitution practiced privately, and abolished licensed brothels, which at the time were controlled by the state. Ownership, management and letting of houses for prostitution has since become considered a criminal offense, and so are tolerance towards prostitution in public places, recruitment, incitement and exploitation of prostitution, as well as incitement to move to a different state or location in order to practice prostitution, and any participation in, or support of, Italian or foreign organisations running such activities. Some bills recently submitted to Parliament have demanded changes in this law. Some require banning the practice of prostitution in public places, while permitting it in private dwellings or re-introducing state-regulated "houses of prostitution". Other proposals contemplate mandatory medical checks for prostitutes, and others again the complete liberalisation of prostitution, de-penalising mutual support activities among people practicing prostitution and wishing to escape exploitation by organised crime. The government has not submitted its own draft legislation on prostitution, and has chosen to give priority to action against trafficking, as a major social and human rights issue.

Articles 7, 8. Women in politics

89. The participation of women in political institutions is the area beset by the greatest contradictions. Indeed, the number of women in national representative institutions has actually dropped in the last four years. In 1994, ninety-five women were elected to the Chamber of Deputies and 29 women to the Senate. Women were 16.1% of elected MPs, which was above the overall average for all previous Parliaments (8%). In 1996, 67 women were elected to the Chamber of Deputies and 26 to the Senate, with a drop to 9.9% of total elected representatives. This result was particularly negative if compared with a European 27.6% average, and with the 25% of women elected to the European Parliament. Despite important individual achievements at this level and in other international fora, the presence of Italian women in international institutions and fora is still very low, and the percentage of women in the diplomatic service is only 1.6%. By contrast, the percentage of women members of the Cabinet has increased. For the first time, there are three women Ministers and eight women Under-Secretaries of State.

90. Women are widely represented in local institutions and in grass-roots organisations and political parties. There are, however, few women in positions of leadership, and even fewer in the national-level ruling bodies, though some political parties have internal regulations providing for quotas of women in the ruling bodies. Nonetheless, women are heavily under-represented in the fora where the most important political decisions are made. The reasons for this state of affairs are both numerous and complex, some of a general nature and some more specific to Italy. Women were banned from the public arena for centuries, as the divide between private and public spheres and the difference in gender roles was a fundamental characteristic of patriarchal society. The situation is changing. Women today are showing evidence of a strong trend towards participation in many places in the public arena, first and foremost the workplace. Yet, women still appear to have a weak propensity for participation in institutional politics.

91. As to specific national aspects, the Italian political scene has undergone a profound crisis also following the Clean Hands Operation. The consequences of this were very serious, because politics itself lost credibility with public opinion though citizens participation in the movement against corruption fostered new political experiences. All these difficulties, however, may have kept many women away from active politics. The fall in the number of women active in political parties may have influenced the low number of women elected to representative institutions.

92. It is by no means a question of women having less of a tendency to participate in politics as such. This is demonstrated by the strong female presence in associations. A number of

local-scale studies have shown that the number of women and the quality of their participation in grass-roots associations are both very highly. In 1994, 282 women's associations were counted in the metropolitan area of Rome alone by the CENSIS Institute.

93. A.Young women, between 15 and 24 years of age, are the most involved in associations and NGOs (with percentages ranging between 8.7% and 11%), while the percentage of males of the same age group participating in these associations is much lower (from 5.3% to 8%). This form of participation tends to decrease from 25 years onwards, probably owing to the fact that women take on more responsibility in families and work. On the contrary, male participation in the association movement tends to remain stable during the course of life.

94. Factors related to family responsibilities have an even greater weight on participation in politics as such. Institutional politics continue to demand full-time commitment and life-styles scarcely compatible with caring. This difficulty is compounded by the fact that owing to cultural backwardness, caring activities fall heavily and disproportionately on women, as described under article 5. Italian women are the most hard-working women in Europe, because their increased presence in the workplace is not followed by an adequate redistribution of caring work at home.

95. Finally, political activity requires a competitive approach, which women generally do not appreciate, and which discourages their participation in internal and external selection mechanisms. Competition has probably been kindled by the fact that women are attaining standards of excellence in all professions and highly-skilled jobs. This probably engenders a defensive attitude, which further undermines women's chances for success.

96. The only mechanisms which seem to work effectively are forms of subordinate co-opting, allowing women to participate in the ruling bodies in very small numbers and with marginal roles. These mechanisms are perfectly compatible with the adoption of quota systems. Their adoption is sometimes combined with an increase in the number of members of the body, so that the specific weight of the women who enter these bodies decreases. Women are often given responsibilities that are directly inherent with women's issues, which means creating a small and separate political class of women, with little or no impact on decision-making processes.

97. An opposite and positive trend is registered on a local level. The considerable number of women mayors elected in the last elections is very important. The new electoral law, which introduced the direct election of mayors, has made it possible to take advantage of women's special aptitude for maintaining direct relations with the population and working to improve the quality of life at the local community level. This explanation is further confirmed by the success of women's lists in local elections where they were present. This seems to prove that women are more attracted to politics based on concrete and practical approaches and on the building of social bonds.

98. However, it should be said that these women mayors were elected mainly in small municipalities. This could mean that women follow their authentic vocation and reach good results when the size of the community is small and they can represent their constituents without meditation. Whenever it is necessary to deal with a broader segment of public opinion, and use traditional mechanisms of mediation such as mass media and political parties, women run up against the same problems that they always have with the workings of the political system, and which limit their presence on a national scale. The government has undertaken the commitment to analyze the impact of electoral systems on representation from a gender viewpoint in its Directive issued on March 7.

99. New strategies of empowerment for women in politics should be adopted. Last year,

many women's and feminist associations promoted training courses in politics. This sort of autonomous initiatives on the part of women deserves support. This approach is clearly more useful than top-down initiatives devised elsewhere. The most important objective is that women develop an ability to negotiate independently within the decision-making centers of politics, as was recently seen in the Labour Party of the U.K., during the recent general elections. For this approach to be successful, the simple issue of numbers should be temporarily shelved. The focus should instead be on working with women to enhance their skills, resources and ambitions. Otherwise there is a danger that politics will be unable to represent society as it is and will separate itself from society. It is not a matter of justice for women, but of democracy itself.

Article 9. Equal rights related to nationality

100. As indicated in the previous Report, a new law (n.91) on nationality rights was passed on 5 February 1992. This law abolished all forms of discrimination between women and men related to acquiring, changing or retaining nationality. Nationality is acquired at birth on the basis of *jus sanguinis*, and can be transmitted by both mother and/or father. If an Italian citizen has acquired another nationality through marriage, he or she does not automatically lose Italian nationality, unless he/she voluntarily chooses to renounce it. Italian nationality can also be acquired through marriage to an Italian citizen, with no discrimination between men and women. In these cases, the decision to take Italian nationality is entirely voluntary. To all effects, the free will of the person concerned is given priority over any form of automatic mechanism. This principle of freedom is very important for women, as an essential element to be included in any form of equality legislation.

101. The only controversy still open on total equality between men and women related to nationality concerns the rights of people who were born before the present Italian Constitution came into force, when nationality matters were still regulated by law 555 of 1912, according to which only fathers could transmit nationality to their children. A recent ruling by the Italian Supreme Court (Corte di Cassazione, sentence n.6297 of 10 July 1996) dealt with such a case, and granted the right to Italian nationality to a person who was born before the Italian Constitution came into force, and whose mother was an Italian citizen, while the father was not. The Court stated that the relevant element to be considered was not the date of birth, but the nationality of the mother, even if at the time of birth her equal rights were not recognized by law. The Court declared the unconstitutional nature of the 1912 law, in contrast with articles 3 and 29 of the Italian Constitution.

102. In its implementation of new legislation on nationality, however, the Ministry of Interior has not extended the results of this ruling by the Supreme Court to all other similar cases, stating that it is only an isolated ruling, applicable only to the individual case concerned. At the moment, it seems that only new legislation will ensure a complete abolition of this last form of discrimination between women and men related to nationality.

Article 10. Education

1. Girls' participation in education

103. In Italy access to education is equally ensured to boys and girls, from primary and high school to universities and vocational training. Both boys and girls can apply for scholarships and

grants. In recent years, girls have reached better results in education than boys. In 1995-96, among young people who had followed six years of university, 38.2% of girls had graduated, as opposed to 33.1% of boys; 63% of girls had achieved high school diplomas, as opposed to 55.8% of boys. In the same period, the drop-out rate from high schools was 7.9% for boys and 5.3% for girls. Girls attend grammar schools (licei) more often than boys and increasingly so: from 25.8% in 1985 to 31.2% in 1995 and 31.6% in 1996. In the same period, the percentage of boys who chose licei increased from 21.8% to 24.6% and 24.9%. The reverse trend is found in vocational training schools and technical schools, where the percentage of boys increased, with a fall in the percentage of girls. An interesting trend is also registered in the smaller percentage of girls attending teacher training schools, proving their trend to move beyond traditional gender segregation both in education and in choice of profession. The number of people who have not completed the cycle of lower secondary schooling (three years after primary school) is on the whole decreasing, but is slightly higher among boys than girls (5% against 4.3%).

104. Generally speaking, all education indicators are positive for girls, and show that young women have made a serious personal investment in culture and education. This is a very important factor, both cause and effect of women's increased assertiveness and self-confidence. Indicators on the fruition of culture also show a positive difference for women. Women go to the theatre more frequently than men, and read more books. Trends among young women are even more positive. Between 1993 and 1996, cultural fruition of theatre, music, museums and cinema increased consistently among girls, even those from a more disadvantaged social background. This shows that girls' decisions are less influenced by family lifestyles and cultural levels.

2. Gender education

105. In the past, schools did not take into consideration gender difference as a fundamental difference. Teachers, school staff and parents began to understand the importance of taking into account gender difference through the experience of working with disabled children. The effort to integrate these boys and girls in primary schools demanded a deep change in bureaucratic school patterns, and a deep revision of all educational practices. The new method of evaluation and grading introduced in 1974, and focused on individual differences, was another step forward, but the major change was represented by the introduction of education objectives aimed at the integration of foreign children into Italian schools. For the first time, educational agents had to come to terms with differences in lifestyles, language, family models and learning patterns. Before these developments, children were all considered the same and "genderless". After these experiences, educational practice has begun perceiving the importance of gender difference as well. In its general functioning, however, the school system did not take up the challenge of gender difference. Understanding of this new approach was slow to develop: the national school curricula for lower secondary school written in 1979 and those for primary schools written in 1985 did not include gender difference among fundamental educational criteria. The new curricula for pre-school education, issued in 1991, registered some novelty. Language became gender-sensitive and gender difference was mentioned as a fundamental aspect of personal identity, and not identified as a cultural disadvantage.

106. In the most recent school curricula, "education on sexuality" is considered as a pillar in the construction of personal, social, emotional and relational identity. As stated in the three-year plan prepared by the Equal Opportunities Committee of the Ministry of Education, nowadays relating to the other person is considered crucial in developing gender identity and a positive self-image, in expressing affection and emotions, even in the relationship with the desire for knowledge. Sex education should be introduced into schools as a comprehensive educational

experience, towards developing respect for oneself and for the other person. In this framework, providing correct information on a number of points, including prevention of sexually transmissible diseases, is an important aspect which should not be overlooked.

107. Over the last ten years, groups of women historians, philosophers and teachers, sometimes as a result of effective cooperation between universities and high schools, have developed gender-sensitive educational projects, and played an important role in the education of girls. Important work in research and teaching guidelines on gender education has been carried out by the Equal Opportunities Committee of the Ministry of Education, which has just published its third Three-Year Plan, focused on gender education and identity, and gender-sensitive vocational training and citizenship.

108. Despite these positive developments, until now no substantial improvements have been registered in the situation described in the 1984-85 research on school books and other teaching aids. As pointed out in the three-year Plan by the Equal Opportunities Committee of the Ministry of Education, text-books are still the main consultation and working tool, a sort of alphabet of school educational communication, in an educational system which finds it difficult to renew itself. Text books communicate allegedly gender-neutral knowledge, which is in fact characterised by the invisibility of women. Primary school books convey traditional stereotypes and messages of inequality. In high schools, gender difference in literature and history is completely ignored.

3. Measures and policies

109. In 1995, a circular letter by the Ministry of Education asked all schools to appoint an Equal Opportunities focus person. It can be expected that the next reform of school curricula will adopt gender-sensitive criteria. In the re-organisation process of the whole schools system currently under discussion, a Commission of academics under the authority of the Ministry of Education has recently illustrated the elements of knowledge considered essential for education towards the Year 2000. The Commission pointed out that, although girls complete their education more frequently and with better results than boys, male-oriented culture still has a dominant position in the educational system, and asked for a change in perspective.

110. The March 7th Directive has laid down a number of objectives related to dissemination of gender-sensitive culture in education, such as promoting knowledge of women's history and teaching of women's basic rights, integrating into the drafting and reading of school and university reform bills consultation with women teachers, students and education experts, and promoting the teaching of education on sexuality.

Article 11, part 1, a,b,c,d. Employment

1. Women's position in the labour market

111. In all EU countries women's employment is a crucial factor in labour market restructuring. With the exception of Great Britain, European women have higher unemployment rates than men; the highest rates are found in Spain, followed by Italy. In Italy, despite the positive trends described in the first chapter of this report, with the regular growth of women's pressure on the labour market, women are still the majority of job seekers, and Italian employment rate, at 41.8%, is lower than the European 50% rate mostly due to women's lower employment: only 28.9%. Young women in Southern Italy are in a condition of veritable social

exclusion: 70% of girls in the 14 to 19 age group, and 60% of girls between 20 and 24 years of age are unemployed. Overall unemployment rates among women are almost twice the corresponding male figure: 16.6%, as opposed to 9.4%. Even the positive trends previously described show lower growth rates than in other European countries.

112. The reason for women's lower employment and slower employment growth in Italy is to be found in the reduced capability of the economic system to create jobs. In 1996, GDP growth was 3.5%, but unemployment grew to 12.1%. This "jobless growth" is the major hurdle to gender equality in employment: in fact, equal opportunities seem to exist only when jobs are not too scarce, while gender differentials increase in situations of higher unemployment.

113. Differentials are even greater if one considers the interaction between gender difference and age. In the 15 to 24 age group, unemployment is 29.4% for young men and 39.4% for girls; in Southern Italy, these figures rise to 50% for men and 65% for women. In other words, the Italian labour market is still dominated by the so-called *"breadwinner model"*: adult men, with full time stable employment until retirement age. This model, however, has been heavily challenged by the major restructuring processes which affected most industries in the course of the 1980s. Flexibility and downsizing have involved early retirement and lay offs for a part of the workforce, longer hours actually worked by those who are still employed, and expanding areas of deregulated and unprotected labour. It is now estimated that about one quarter of employed workers are to be found in this area of atypical and unregulated work.

114. In this changing scenario, women have proved to be the most dynamic social actors. As described in the first chapter of this report, both women's employment and unemployment rates have steadily grown, proving that women's presence on the labour market is now an irreversible fact. Even a traditional feature of women's employment such as its relatively "temporary" nature is now disappearing: in the last decade, and labour market "activity" rates among women with children have steadily grown. Such growth has not depended on a more equitable distribution of family responsibilities: as described under article 5, unpaid caring and reproductive functions are still almost entirely carried out by women, whose global paid and unpaid working hours are an average 28% longer than men's. In other words, what women have achieved has not been due to a dynamic economic system or to effective public and social policies, but only to women's own hard work, assertiveness and determination.

115. Labour analysts have become increasingly aware of this process. They have stressed the highly performing dynamics of women's presence on the labour market, and in some cases even talked of the "feminisation" of labour market developments. Specific skills and qualities that are deeply rooted in women's social experience, such as communication and relational skills, network organising, care-providing, are now being considered for their intrinsic economic and social value, and as possible resources for job creation. Women's different expectations, attitudes and motivations are beginning to be studied as possible assets for the whole labour force.

116. Among these, the most relevant one is possibly women's investment in their own "human capital", through education. As was described in the previous chapter, women's education is higher than men's at all levels of schooling, even non traditional ones, and women perform better. Their changed position in the labour market is mostly related to these educational processes, with an increased presence of women with tertiary level education among job seekers. They represent a highly valuable human and economic resource for the country, which is at the moment under-used or over-exploited, particularly in Southern Italy, where women high school and university graduates represent a high percentage of long-term unemployment, and where new jobs are increasingly concentrated in the area of unregistered, marginalised and unprotected labour.

117. These forms of labour are highly common in Italy, as in all Southern Europe. A recent study by Censis has estimated that about 4 million workers are unregistered and not covered by either the pension or tax system; part of them are officially considered as non members of the workforce, such as housewives, students, retired workers. Many unregistered workers are in fact regularly employed elsewhere, and hence have two jobs. Most of them are men, as the majority working women are still responsible for unpaid care-providing activities within their families.

118. There are a number of reasons why unregistered employment is so significant in Italy. Public regulations on economic activities are still very rigid and not effective: this is an area which is currently under reform. The weak position of so many unemployed or low paid workers on the labour market makes them willing to accept unregistered and unprotected employment, in order to have some form of job. There is no simple solution to this problem: too many rules lead to further development of a parallel unregulated and illegal economy, while lack of rules and so-called neo-liberal policies lead to over-exploitation and marginalisation for vast numbers of workers. The Italian Government is attempting to develop new policies targeted at a correct equilibrium, where adequate levels of social protection are combined with specific measures to foster local development and social cohesion, through gradual incentives and measures which can help small business to re-enter the legal and regulated market.

2. Sectoral developments

119. Women's employment has fallen less than men in industry. The most significant growth is concentrated in the service sector, where women are now over 40% of the employed in the tertiary sector. Nearly one third of women who have recently entered this sector are found in tourism, trade and catering; nearly half of the new jobs in these areas are taken by women: they go from saleswomen in big department stores and waiters in hotels and restaurants to interpreters and market analysts in marketing companies. Immigrant women are also mostly employed in this sector, mostly as domestic workers. Between 1993 and 1995 registered immigrant working women rose from 18,284 to 29,814; in 1996, of the 4,939 immigrants employed as domestic workers 62.3% were women.

120. In the insurance and banking sector, women are 70% of new agents and employees. In the last decade, however, the majority of women high school and university graduates have been employed in the public administration sector, where working conditions are less arduous (with a 36-hour week) and where the hiring system based on public examinations has enabled women to achieve positive results similar to their achievements in schools and universities. Nearly 30% of women's employment growth is found in this sector(mostly in education and healthcare), and nearly 20% in private care-providing services. While in most of the world women's employment growth is matched by a parallel expansion in part-time jobs, in Italy the situation is quite different: less than 10% of all jobs are part-time.

121. Women's presence has also increased in the self-employed and micro-business sector, which is more common in Italy than in the rest of the European Union. 16% of Italian women are self-employed, as opposed to 10% of women in the rest of Europe. Women in business and in the liberal professions have increased their numbers more significantly than men. The presence of women entrepreneurs has increased in all sectors of business, while the percentage of women among self-employed professional workers has increased in industry and services (particularly healthcare and education) and become less relevant in agriculture. On the whole, however, self-employed women and women in business have increased less than wage and salary earners.

122. Generally speaking, women are increasingly taking positions of greater and more direct responsibility in business and in the liberal professions, and in the more skilled positions among wage and salary earners, taking the new opportunities that have arisen as a consequences of changes in labour demand. The new demand for activities which have traditionally been performed by women may have helped women's entry into the market, protecting them from men's competition. Some professions, like secondary school teachers, have become massively characterised by women's presence. The other face of this coin, however, is occupational segregation.

123. In Europe, the countries which are considered more advanced in terms of women's presence in the labour market are also those which show higher levels of occupational segregation, while the lowest levels of segregation are found in Italy and Greece. Sectoral segregation maybe the price which women have to pay in order to enter the market, until they reach such a critical mass as will enable them to stand up to men's competition and assert their own specific skills and qualities. As to hierarchical segregation, which blocks women's career and prevents their access to decision-making and managerial positions, we can still identify a real disadvantage, already mentioned under articles 7 and 8. There are mainly two reasons for this. First: present career paths do not reward skills but total engrossment in work activities, to the detriment of personal life, which is typically a male behaviour pattern. Second, in the most bureaucratic organisations career paths are basically determined by the higher hierarchical levels, through co-opting mechanisms which are still largely in the hands of men, and tend to exclude women.

3. Measures and policies

3.1. Working time

124. Moving beyond the "*strong male-breadwinner model*" involves redistributing paid work through working time reduction measures which can liberate time for both women and men to use for caring activities and personal development. Shorter and more flexible working hours should involve all workers. Part-time schemes mainly or only targeted at women workers would not foster this development, and would segregate women in the more marginal areas of the labour market without redefining the distribution of caring activities.

Measures related to working time which have been included in the Pact for Employment, which the Government signed with the social partners in September 1996, are:

- a reduction of the working week limit defined by law from 48 to 40 hours;
- incentives for further reductions of working time and to foster the use of part-time work.

125. The March 7th Directive has clarified that flexible working hours have to be "*adapted to the different needs of working women and men in the different phases of their lives, and making it possible for them to choose part-time work arrangements for a period, and later be re-instated into full-time employment with no negative impact on their careers*". The Directive also demands new provisions on night work for women and men.

126. To eliminate discrimination in the workplaces, it is necessary to promote far-reaching changes in work organisation. They should not be focused on demanding more positions for women, but on developing human resources and diversified skills, introducing new forms of evaluation and grading.

127. Measures now under consideration by the Minister for Equal Opportunities are:

- revision of the Positive Actions Act, based on close monitoring and support for projects which have proved successful in changing work organisation, such as those quoted in the first chapter of this report;
- revision of legal instruments for civil action and/or other means of redress against individual discrimination.

3.3. Tackling wage and skills inequalities

128. Equal pay for equal work or work of equal value was a principle explicitly formulated by art.2 of the 1977 Parity Act. The same article mandated single grading systems for women and men. In the Italian collective bargaining system single grading schemes for all workers were introduced in the 1970s in the national labour contracts of all industries and sectors. These grading systems, however, have not eliminated the existence of de facto wage differentials between women and men, nor the segregation in de-skilled and repetitive jobs which characterises women's position in industry.

129. These wage and skill differentials are increasingly rooted in organisational patterns that transform differences into inequalities, in a system which formally ensures equal rewards for "equal" work. Measures to eliminate wage inequality can mainly result from women's empowerment initiatives, organisational changes and gender-sensitive collective bargaining, rather than through further legislative provisions.

3.4. Labour market and job creation

130. The next years will continue to be characterised by restructuring in many sectors of the economy, and the breaking down of the system of rules which had so far regulated bureaucratic organisations. Employment and individual career paths will be characterised by greater flexibility and instability. Women and men will compete more equally on the labour market, but in a situation of greater uncertainty and low employment levels for both sexes. Borders between caring and market-oriented activities will be redefined, and some barriers will probably break down. Measures included in the Pact for Employment are aimed at regulating this new flexibility and targeting it towards job creation and employment growth. They are:

- new forms of local development and job creation planning through local tripartite agreements between local authorities and social partners;
- incentives to employment growth in research activities;
- introduction of new schemes for "temporary agency hiring"; of special apprenticeship and "training on the job" contracts; of "socially useful" community work for young unemployed people;
- reform of vocational training schools and courses.

131. The March 7th Directive has indicated a number of actions to ensure a gender perspective in implementing these policies. Among them: financial incentives for women's employment growth in the areas where women's unemployment is particularly high; targeted training and education activities and promotion of women's skills, particularly in self-employment, "socially useful work" and non profit activities; new highly skilled career paths for women.

3.5. Women in business

132. Promoting women's entrepreneurship is explicitly mentioned in the Pact for Employment as one of the criteria to select funding and special credit lines for small business. As mentioned in the first chapter of this Report the 1992 Act on positive actions for women in business was finally implemented in 1996, with a first budget of 48 billion liras, to be used for business creation and development, training of new women entrepreneurs, business innovation and skills development.

133. To promote women's entrepreneurship, the Minister for Equal Opportunities has: created an "observatory" to monitor the state of affairs; set up an information service for women; created a commission to coordinate the work of all relevant institutional bodies; launched a multimedia campaign to inform and encourage women to set up new businesses. Actions included in the March 7th Directive include measures to ensure women's access to the special credit lines for young people who wish to create new businesses ("*loans of honour*") and to European Structural Funds.

Article 11, part 1, e. Social security and conditions of older women

1. The social role of elderly women

134. Italy, like all industrialised countries, has an aging population. In 1995, there were 9 million people over 65 in the country, as opposed to 8 million in 1991. In the last 50 years, a 38% population growth rate has been matched by 150% growth in the number of people over 65. Women, again as in all industrialised countries, are the majority of elderly people: in 1993-94, they were 51% of people between 60 and 64, 56.1% between 65 and 74, 63% over the age of 75[8]. Because of their longer life, women more frequently outlive their spouses than vice-versa: in 1994-95, widows were 4.7% of women over the age of 60, as opposed to 10.6% of men in the same age group. Among women over 80, widows were 73.9%.

135. Consequently, living alone is a more common condition among elderly women than among men. In 1994-95, 31.4% of women over 60 lived alone, as opposed to 10.3% of men in the same age group. 30% of men of that age lived with their partners and with their children, as opposed to 13.1% of women. A high percentage of these women are not self-reliant or are disabled (see article 12), and their economic conditions tend to be worse than men's. In January 1996, the average pension perceived by women and men was 871,000 liras for women and 1,470,000 liras for men in the case of old age pensions, 695,000 for women and 941,000 for men in the case of disability pensions, but rose to 721,000 for women and fell to 443,000 for men in the case of survivors' pensions[9].

136. Despite these very clear facts and figures, stating that older women are poorer, widowed, disabled and lonely, does not provide a full description of the condition of elderly women. A

8/ Caritas Italiana, Fondazione Zancan, I bisogni dimenticati. Rapporto 1996 su emarginazione ed esclusione sociale, Feltrinelli 1997.

9/ INPS (National Social Security Institute), average monthly amount of pensions paid by the National Pension Fund for Wage and Salary Earners, 1.1.1996.

study by the Research Institute on Social Services[10] has highlighted the important role which elderly women have as care-providers for their own parents or other older relatives, spouses, children, and in 40% of cases also for grandchildren and other relatives. According to other studies quoted in the same publication[11], 78% of women over the age of 75 are care-givers for relatives, neighbours and friends, while over one third of older women receive no help from their relatives in performing household chores or other caring activities.

137. This condition is not only a burden. The mentioned studies have identified the existence of a "mother-focused" elderly family structure, where women are the focus of communications and emotional relations, as well as managers and organisers of caring within the family. The social status of elderly women, the quality of their emotional life and human relations, seems to be higher than men's, though the price which women pay for this is greater fatigue and even self-denial.

138. Elderly women's associations, women in pensioners' unions and civic movements are now attempting to transform this contradiction into a resource for both women's empowerment and local development. Self-organised services and Local Exchange Trading Systems (LETS, usually defined in Italy as "Time Banks") are being experimented in cities like Rome, Perugia and Bologna, to enable women to exchange caring, knowledge and other assets and activities on the basis of time used, without any monetary mediation. Elderly women are actively engaged in these experiments, and increasingly active and assertive in pensioners' unions and so-called "Universities for the Third Age". In other words, it is not only young women's subjectivity which has changed. Elderly women are maybe more often in need, but are demanding to be listened to and empowered even in defining what kind of services and provisions can adequately respond to their needs.

2. Measures and policies: changes in the social security system

2.1. The 1995 pension reform

139. The Italian pension system was reformed in August 1995, following a major financial crisis in the National Pension Fund and long negotiations with the trade unions. This pension reform introduced the following changes:

- the old income-based system, was replaced by a contribution-based system;
- seniority pensions were abolished, leaving only old age pensions;
- the very wide range of different pension entitlements and systems for different categories of workers was harmonised;
- higher retirement age was introduced for all workers.

140. Since many of these points, if introduced immediately, could have a very negative impact on the economic conditions and pension entitlements of most workers, the reform introduced a "transitory system", with step-by-step implementation of each change between 1995 and the year 2000. This gradual implementation is at the moment under discussion between the government and the social partners, due to severe budget constraints which might endanger the accountability

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10/ Istituto per gli Studi sui Servizi Sociali-Ministero dell'Interno, 1994, quoted in Caritas Italiana, Fondazione Zancan, op.cit.

11/ Caritas Italiana Fondazione Zancan, op.cit.

of the whole system. The most sensitive points in this discussion concern the scheduling of the transitory system, particularly as concerns seniority pensions and retirement age.

2.2. Women's pensions

141. The reform maintained the difference between women and men concerning retirement age, which in 1996 was 57 for women and 62 for men, and through gradual steps will reach 60 for women and 65 for men by the year 2000. Further lowering of retirement age is granted to workers who have been employed in heavy jobs.

142. Other important points which directly concern women are:

- the reform enables the government to enact legislation to revitalize existing pension provisions for housewives, establishing a Pension Fund for "*persons who perform unpaid caring work within the family*"; the new legislation is currently under discussion;

- maternity is taken into consideration in calculations to fix individual retirement age; "nominal contributions" will be paid during absence from work due to caring activities performed by either parent for children under the age of six or cohabitant handicapped relatives.

2.3. sensitive issues

143. Issues which are particularly sensitive for women concern "subsidised" minimum pensions, survivors' pensions and Pension Funds. Subsidised pensions apply to those people whose entitlements would lead them to perceive sums below the level of minimum living allowances (in 1995, this level was set at 8,143,850 liras per year). In such cases, the sum is integrated by an extra subsidy, until it reaches the given threshold. The subsidy is not considered as a form of social security, but of welfare aid: hence it is calculated on the basis of family income and not of personal entitlements. Though the 1995 reform introduced more favourable conditions to calculate these subsidies, further reforms need to reconsider whether these criteria of "*family dependence*" are compatible with women's rights as individual citizens. The same applies to welfare allowances (currently 6,240,000 liras per year) introduced by the 1995 reform, which can be paid to citizens over 65 who live in need, independently of the amount of contributions they have paid. These allowances will substitute subsidised pensions, and are also dependent on family income. The nature of these problems will change when these entitlements are replaced by the Basic Income System now under discussion. In 1994 the number of women who perceived the subsidised minimum pension was 4,689,349, as opposed to 1,862,766 men[12]. As to survivors' pensions, for many women this is the only form of income; measures concerning this entitlement should be assessed considering their gender impact.

144. Another issue which may have unwanted effects on women concerns the decision to establish voluntary pensions funds jointly set up by employers and labour unions for those workers who choose to subscribe to them in addition to what they receive from the public pension system. If these funds are calculated only on the basis of insurance capitalization criteria, women's longer life expectancy may actually penalize them and lead them to receive lower pensions than male workers of the same age and who have paid exactly the same amount

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12/ Ministero del Tesoro, Pensioni integrate all minimo - Analisi degli aspetti strutturali e finanziari 1992-94.

of social security contributions.

145. All these social security issues are currently under discussion, in the context of tripartite concertation between the government and the social partners on how to revise the 1995 reform and the welfare system in general. Whether or not the final results of this revision will be gender-sensitive and conducive to women's empowerment will not depend on social security issues only, but on the comprehensive approach to welfare reform discussed in the first chapter of this Report.

Article 11, part 2. Working mothers and fathers

a,b). Marriage and maternity entitlements.

146. Law no. 7 of January 1963 amended a previous law of 1950 and provided that dismissals of women workers who get married were null. Subsequently, Law 1204/1971, which contains the essential regulations in terms of protection of motherhood, extended and detailed the prohibition against dismissal. Today, women workers cannot be dismissed from the beginning of gestation until the end of the first year of life of the child. Wrongly dismissed workers have the right to reinstatement. Women workers are currently well protected against dismissals by the rigorous general regulations that apply in this field. Employers always have to demonstrate the existence of a rightful cause for dismissal, barring which they have the obligation of re-hiring the wrongfully dismissed male or female worker. However, wrongful and discriminatory practices aimed at avoiding these provisions are still to be found, particularly in small businesses.

147. Law 1204 also regulates maternity leave. Art. 4 provides that women cannot work during the period extending from two months before to three months following birth. The period of mandatory abstention from work during pregnancy may be longer if the pregnancy is at risk, in the case of hazardous working environments, or in the case in which the woman cannot be assigned to tasks that are compatible with her state of pregnancy. Since 1987, all women farmers have had the same maternity rights as other women workers: during the last two months before childbirth, and in the first three after delivery, they receive a daily allowance equal to 80% of the minimum salary of an agricultural worker.

148. This legislation protects female employees of the private sector or public administration to a large degree, as the period of mandatory abstention from work is very long compared to that of other European countries. However, the Italian regulations entail an imbalance between the protection afforded to employees and that available to self-employed women workers.

149. The regulations in force are now criticized because they offer very few opportunities of obtaining special leaves beyond the period of mandatory discontinuation of work. The draft bill on parental leave, which has been recently approved by the government in line with the relevant EU Directive, envisages the right of either mother or father to claim leave from work for reasons related to the educational, caring and health needs of children up to the age of 8 years. It is an important point, but the overall subject of the protection of maternity needs to be reviewed. The March 7th Directive calls for the adoption of a consolidated act on maternity, to harmonise and renew the whole set of norms on this issue.

c) Child-care facilities

150. After the great wave of creation of services stimulated by the women's movement and by new legislation during the 1970s, not much progress has been achieved in the field of childcare facilities. The fall in birthrates and the shift towards greater individualism and privatisation which has characterised recent years has led to less sensitivity of public institutions towards the need to establish childcare facilities and services, with the only exception of some local authorities which have reached very high standards in both quantity and quality of services. One indicator of these problems is the fact that there are no updated data on the number and distribution of public childcare facilities in the country. The most recent figures date back to 1992-93. In 1992, childcare facilities for children from 0 to three years were 2,180 in the whole of Italy, with a ratio of 5.9 places available per 100 children. As for other services, there are major inequalities between the different parts of the country. In the North-West, childcare facilities were 763, with a 9.5 to 100 ratio; in the North-East, 559 (9.9); 491 in the Centre, with a 7.4 ratio; while in Southern Italy there were only 2.2 places for every 100 children, with a global figure of only 367 facilities. There are no figures on private childcare facilities, or on their average cost, which is usually quite high.

151. The situation is better for pre-school facilities (three to five-year-olds), which have now been extensively recognised as essential not only to working mothers and fathers, but in view of adequate educational paths for children. In 1992-93, there were 27,257 facilities which provided pre-school education for a percentage of Italian children varying from 95-97% in the North, to 86.3% in the South. Some local authorities are experimenting new services to support children and their families, providing counselling, play centres, home-based child minders, and baby-sitting services.

152. After these years of lack of public policies and facilities for children, the Italian government has finally prepared the Three-Year National Plan for the Girl and Boy Child, with 900 billion lira funding to provide childcare and other facilities, and support for families with children.

d, and part 1, f) Protection of health during pregnancy

153. The government has recently approved a legislative decree to transpose the European Community Directive n.92/85, aimed at promoting improved healthy and safety at work for working women during pregnancy, in the period immediately after childbirth and when breastfeeding. This decree has extended the range of jobs considered harmful, mandating employers to assess health hazards, inform working women about them and take the necessary provisions to avoid risk. Working women will have the right to take leave from work to take pre-natal tests.

154. The question of nightwork has for the moment been laid aside: it is a question which concerns not only pregnancy, but all working women. On the basis of art.5 of the Parity Act 903/1977, companies in the manufacturing sector are forbidden to assign women to night shifts; waivers to this ban can be introduced through collective bargaining, but cannot apply to working women during pregnancy, the post-natal period and when breast feeding. In other sectors this kind of protection does not exist.

155. These protective provisions will have to be revised following a ruling by the European Court of Justice, which declared the illegitimacy of the ban on nightwork for women alone. As to working women during pregnancy, post-natal period and when breastfeeding, the EU Directive contemplates a less rigid ban on nightwork, not applicable to all pregnancies, but only to those which are particularly at risk. This question will be have to be dealt with in a comprehensive way, when the European Directive on working time is transposed into Italian

legislation.

Article 12, part 1. State of health and access to healthcare

1. Life expectancy and mortality rates

156. In 1996, average life expectancy was 81.3 years for women, and 74.9 for men. This difference has consistently remained over the course of the last four years, during which both sexes have seen an increase in their life expectancy, which in 1993 was 80.5 for women and 74.1 for men.

157. Whether this advantage of women will remain unchanged, or will be affected by women's changed lifestyles, and adoption of some habits previously typical of men, is yet to be seen. Deaths due to lung cancer, for example, see a major difference between the sexes among the age groups characterized by less incidence of smoking among women; this gap may narrow when the generations of women smokers reach the age of lung cancer incidence.

158. Other relevant gender differences are found in mortality rates among young people. Between fifteen and thirty-four years of age, the most widespread causes of death are road accidents and AIDS. In both cases, mortality is higher among young men than women, but the gap is getting smaller over the course of time. In the age group between 25 and 34, AIDS incidence among women has risen from 2.1 per 100,000 in 1987 to 12.0 in 1991. The ratio of AIDS cases between men and women has fallen from 5,2 to 3,6. 78.2% of women AIDS patients have caught it because of drug abuse, and 18.8% through heterosexual intercourse. While women are less than 1/5 of AIDS cases in the 25-34 age group, they are over half the patients who caught AIDS through heterosexual contagion. In the near future, AIDS epidemiological patterns between women and men may become the same[13].

2. Women's state of health

159. Though Italian women live longer, their state of health seems to be worse than that of men. In 1994, 69.2% of men declared they were in good health, as opposed to only 60.2% of women. The difference remained even between women and men of the same age group, so it cannot be explained in terms of women's longer life and of ailments related to old age.

160. As on other issues, the question that remains open is how much of this difference is a matter of objective conditions, and how much is linked to different subjective self-perception. As to objective factors, one important indicator of gender difference in health conditions is the greater impact which social disadvantage seems to have on women rather than men. ISTAT studies on differential mortality have shown that while 24.8% of deaths among men can be attributed to social disadvantage, this percentage increases to 27% among women [14]. Among women, the cause of death which seems most affected by social disadvantage is diabetes.

13/ Susanna Conti, Gino Ferchi, Anita Gletti, Giovanni Rezza, Sabina Prati, AIDS: a problem of great relevance to women's health, Epid Prev 1996; 20, 133-135

14/ For all this paragraph, see Fabrizio Faggiano, Adele Seniori Costantini, Giuseppe Costa, Social Differences and women's health in Italy, Epid Prev 1996; 20; 251-254.

Another indicator of women's worse state of health is related to disabilities. There are 2,677,000 disabled people in Italy, and 1,649,000 of them are women. 5.9% of women have disabilities, as opposed to 3.9% of men. Part of this difference could be explained in terms of women's longer life, since disabilities have greater incidence among older people: 1,340,000 disabled women are over the age of 60. Once again, however, the difference between women and men remains even within the same age group: 41.9% of women over the age of 75, as opposed to only 31% of men over 75.

161. As to gender-specific tumors, breast cancer ranks first, with about 11,000 deaths and 25,000 new diagnoses of breast cancer per year, followed by cervical cancer, with a yearly toll of 1,500 deaths and 3,500 new cases[15]. Early detection screening measures against these tumors, such as mammography and pap tests, are still insufficiently used in Italy. One form of tumor which used to be gender-specific to men, namely lung cancer, is now the sixth most frequent cancer in the world among women [16]. Recently, lung cancer mortality has become stabilised among men, and has sharply increased among women [17].

3. Access to healthcare services

162. In access to healthcare services, it is difficult to identify differences between women and men, and certainly there is no form of formal or open discrimination against women. There is, however, quite heavy discrimination **among** women, particularly related to social and economic conditions, geographical areas, and nationality. As healthcare in Italy falls under the authority of Regional governments, social differences between Centre-North and South of the country, which affect all aspects of Italian life, are particularly noticeable in this field.

163. Differences concern many aspects of healthcare: the number of services, their quality, the ability of family doctors and general practitioners to guide their patients towards appropriate services, the availability of information on health issues, the concentration of healthcare investment in the field of highly specialized technical equipment, which can be afforded only by facilities in the richer regions. These differences are particularly noticeable in access to family planning and services related to reproductive health.

164. One specific problem in access to healthcare services concerns immigrant workers. Immigrants tend to refer to health services less often than Italian citizens, and only in cases of great need. So far, male immigrants have required healthcare mostly following accidents and traumas, and women mostly for services related to reproductive health.

165. At the moment, the government is drafting the second National Healthcare Plan. This Plan will include points listed in the March 7th Directive, such as the use of gender-disaggregated data and gender-impact analysis and development of targeted projects for women and children.

15/ id.

16/ European Institute of Women's Health, op.cit.

17/ Data provided by Dr.Fiorenza D'Ippolito, from the Prevention Department of the Ministry of Health.

Article 12, part 2. Appropriate services in connection with reproductive health

166. Under this article, we shall discuss only aspects directly mentioned in the CEDAW Convention, namely services connected to pregnancy, childbirth and post-natal care. As to abortion, we shall refer about this point under article 16, Under the same point, we shall also discuss other aspects related to sexuality and those social and healthcare services which can help ensure a healthy sexual life.

167. One major problem related to pregnancy and childbirth is the tendency by the medical profession to treat motherhood as a disease, rather than a complex but natural physical and emotional human experience. This attitude has de-humanized childbirth and disempowered women, marginalised information and practices which women had developed over the course of history, and often created more health problems than it has solved.

a) pregnancy

168. Medical care begins in the early stages of pregnancy. Scanning and very frequent blood and urine tests are prescribed extensively and often unnecessarily. For those women who live in Southern Italy, where public services are few, or for women who for a number of reasons choose to use private services, the overall cost of a normal pregnancy can rise to between 2,000,000 and 4,000,000 liras. If a specialized test like amniocentesis is required, in most cases it cannot be provided by public services, and will involve an extra cost of at least 1,200,000 liras. Furthermore, lack of facilities and adequate funding has led to a scarce provision of other aspects of care during pregnancy, such as pre-natal courses, which are less costly but would enable prevention of many health problems, while at the same time empowering women to activate all their subjective energies without over reliance on medical treatment. Lacking these services and a woman-friendly atmosphere in healthcare facilities, women themselves tend to increasingly rely on high technology as the only way to get both reassurance and health protection.

b) childbirth

169. In the vast majority of cases (86.2%), babies are born in public hospitals, followed by private clinics (13%). Home deliveries are very rare occurrences: only 0.5% of all births. This is partly a cultural factor, and partly related to the fact that no healthcare or reimbursement is provided by the National Health Service for home deliveries. The only exception to this rule is found in the Region of Piedmont, which reimburses up to 60-80% of costs incurred for home-births, provided a doctor has certified that it is a normal pregnancy, with no risk. So far, no regional government has provided direct public assistance for home-deliveries, but in some regions sensitive midwives and women's movements have begun to organize these services in collective form, and are demanding support from public structures.

170. Except in these more advanced experiences, in most public and private clinics women in labour are still heavily disempowered and over treated, from the first moment of acceptance into hospital. At first, they are subject to standardized and at times humiliating routine practices (enemas, episiotomy, etc.), not always justified by real health needs. Both labour and delivery occur in often overcrowded wards, not always open to the woman's partner or other person of her choice, nor to any other option on the part of the woman concerned, such as delivery in a different position from the standard supine position.

171. One reason of special concern in this over-medicalised scenario, is the steady increase

in the percentage of caesarean births (from 23.2% in 1992 to 24.9% in 1994), with Italy having Europe's highest caesarean section rate[18]. This increase is not justified by WHO parameters, and does not match the percentage of risk pregnancies, which in 1994 amounted to 15.5% of all pregnancies. Furthermore, different medical facilities seem to use very different standards in deciding when to operate a caesarean section. Another correlation which should be cause for serious concern is that between still births and social-economic conditions of the population. Taking indicators such as regional GDP and education levels, it would appear that mortality rates at birth decrease in richer regions, and in proportion with the degree of education of the parents. In Italy, infant mortality is higher among women with primary education only, compared to women with university degrees [19].

c) Post-natal care

172. After birth, in most healthcare facilities babies are still separated from their mothers, and kept in separate childcare wards. They are brought to the mother at fixed times, and often no help is provided to teach her to breastfeed; feeding on demand is not facilitated and often discouraged by hospital staff. According to the 1994 ISTAT multi-purpose study, 70.3% of babies were breastfed, with breastfeeding less common among women over 36 years of age and more common among women with higher education and a job. As on other issues, it would seem that education, self awareness, information about babies' health and wellbeing, have a greater impact on these decisions than availability of time or economic factors such as the cost of milk formulas.

173. As to assistance during the post-natal period, this is the only field where the trend to overmedicalization seems to be contradicted. Under the new hospital payment system, introduced by the previous government and still in force, the National Health Service reimburses hospitals on the basis of treatment provided, and not of the number of days a patient has been hospitalized: consequently, hospitals have drastically reduced women's stay in wards after birth. This choice, however, has been due only to savings policies by the health authorities, and has not been matched by adequate care for women's state of health and their real needs in the first days of motherhood. Following this concern, some Italian provinces and municipalities have begun providing post-natal home assistance and counselling. At the moment this is only an experimental practice, and no comprehensive data are available on its concrete results.

d) Measures and policies

174. In recent years, "humanising childbirth" has become the objective of quite a widespread civic movement, including both women and sensitive healthcare providers. This objective is explicitly mentioned at points 8.3 and 8.4 of the March 7th Directive. The demand to re-organise all childbirth practices and facilities and provide adequate support for home deliveries and post-natal care is also found in two national parliamentary bills and three regional ones, while six regional laws have re-organised childbirth facilities and practices, but without introducing special support measures for home deliveries. A comprehensive set of proposals by the Office of the Minister for Equal Opportunities on humanised childbirth and women's

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18/ Evans, L. Italy has Europe's highest caesarean section rate, BMJ 1995; 310;487. Quoted in: Vittorio Basevi, Luigi Cerrone, Still Births, caesarean section, and the regional economy in Italy, 1991. Epid Prev 1996; 20: 99-101

19/ Vittorio Basevi, Luigi Cerrone, op.cit.

reproductive health will be finalised next autumn, in the course of an international conference the Ministry has called on these issues.

Article 13. Family benefits, credit, sports

a) The right to family benefits

175. The organisation of family benefits is based on the *"breadwinner model"*. The traditional "head of the family" is the person physically entitled to receive the benefits. Caring activities are not recognised at all and do not give any rights to family benefits. Women can receive benefits only when they are widows, divorced, single mothers, or when the husband is disabled. Furthermore, the amount is calculated on the basis of the whole family income, and the mechanism of calculation discourages women's economic independence. Despite stronger women's presence on the labour market, the "*male breadwinner*" regime approach seems to be strengthened over last ten years. Tax rebates for families with only one income were introduced.

176. Family benefits, however, are not sufficient to cover the costs of the maintenance and education of children. In the past traditional Italian government policies towards the family, used to stress ideological aspects, while giving little practical support for the reality of family life.[20]

177. The family benefits system needs to be completely revised in the context of overall welfare reform. This question is currently under discussion. One of the suggestions would be to unify financial management of family benefits, parental leave and funds for child care facilities, as for example in France. It is argued that this would help moving away from the *"male breadwinner"* regime, focusing on family responsibilities.

b) The right to bank loans, mortgages and other forms of financial credit

178. In general the access to bank loans is ensured on an equal basis for both sexes. As mentioned in the first chapter of this report, the 215/92 law introduced special funds for women in business, promoting business development and innovation and training for new business-women. But the new law was not enforced until very recently. In the last months of 1996 the Office of the Minister for Equal Opportunities and the Ministry of Industry promoted initiatives towards the operation of this law.

c) The right to participate in recreational activities, sports and all aspects of cultural life

179. There are no legal discriminations between men and women concerning the right to practice sports. Between 1988 and 1995 the regular practice of sports in the Italian population has fallen from 22.9% to 18%. This fall has concerned both women and men, but is more marked among men, and this has reduced the gender gap, which is quite high in this field: the number of women who practice sports is almost half the number of men. Sports practiced show a marked gender difference: football ranks highest among men, gymnastics and dance are the sports most practiced by women. As in other fields, there is a major difference between Northern and Southern Italy, with less sports practiced in the South, and a larger gap between boys and girls.

20/ Franca Bimbi, La debolezza delle politiche familiari in Italia. Un caso di federalismo mancato?

180. The situation is reversed as concerns cultural and recreational activities, where women are much more active then men, particularly when young and not yet burdened with family responsibilities. In the 18-19-year-old age group, activities practiced more frequently by women are singing (27.5% of women against 21.2% of men), dancing (77.7 against 70.3%), acting (28.2% and 20%), fine arts (23.7 against 15.3%), sewing and knitting (33 against 2%). While these figures may indicate a persistence of gender stereotypes, it should be stressed that such diverse forms of entertainment, together with other cultural activities mentioned under article 10, may have contributed to women's better performance in education and more dynamic attitudes in personal life.

Article 14. Women in rural areas

181. The most recent comprehensive information about the condition of women in rural areas can be found in the data of the 1990 Census, partially described in the last CEDAW Report. These data indicated an increase in the population of rural municipalities, in line with similar developments in the most developed western countries, witnessing a reversal in previous trends towards intensive urbanization.

182. Some observers consider these population movements towards smaller rural communities as part of a growing desire for more humane lifestyles. It is noticeable, however, that while men still tend to migrate from rural to urban areas, women migrate less often, and tend to substitute men in agricultural work. As on other issues, greater efforts are needed to understand this process, and the interaction between objective social and economic factors and women's subjective will and self-perception as farmers, food producers, and active citizens of rural communities.

183. Looking at ISTAT data, in 1993 women were 37.4% of the workforce employed in agriculture, and fell to 34.6% in 1996. By contrast, women agricultural entrepreneurs rose from 18.8% in 1993 to 24.2% in 1996. Between 1980 and 1990, the total number of farms fell by 7.5%, but farms owned and managed by women increased by 9.9%. Most of these women inherited the land from their fathers or husbands, but for a growing number of them farming was a personal professional choice.

184. Equality between women and men in owning land, managing, and farming, as well as in social security entitlements, was established by the 1975 New Family Law, which changed article 230bis of the Civil Code, and stated that "women's work is considered equivalent to men's". The new law de facto abolished women's unpaid work in agriculture, by introducing "family farms" where profit sharing, ownership and management decisions are to be shared equally by all members of the family who participate in farming. The same rights equally apply to regularly married and de facto families. Articles 48 and 49 of the 1982 Law on Contracts in Agriculture further clarified that the legal entity signing contracts related to land is the farmer family, which can be legally represented by any member of the family, with no discrimination against women.

185. If we look at actual conditions, however, we notice that the trend towards full equality between husband and wife is not yet fully achieved. While the percentage of women farmers employing their husbands as farm help increased significantly since 1980, in 1990 it was still only 37.8% of women who employed their husbands, as opposed to 49.8% of men farmers employing their wives.

186. As to hired farm labour, in the past, in some areas of Southern Italy agricultural workers were very often hired through the system of "caporalato": a form of subcontracting forbidden by legislation but very common. A "caporale", usually man, would contact a group of women agricultural workers, select which to hire, and provide transport for them to the place of work, keeping a percentage of their wages for himself. It was a very serious form of exploitation of women's labour and a form of illegal management of the agricultural labour market, often run by criminal organisations. This phenomenon still exists today, though with different features, also because of the presence of many immigrant workers in agriculture. As of today, attempts to eradicate it have not yet been successful.

Article 15. Equality before the law: draft legislation on women's access to civic service and military careers

187. As explained under the previous articles, Italian women have legal capacity identical to that of men, and full equality before the law. The only remaining difference in women's legal position concerns military careers. The government has recently prepared very innovative draft legislation both on civic service and military careers. The new bill is now under scrutiny by the Senate..

188. Italian legislation already contemplates conscientious objection to military service, which is based on conscription of all able-bodied young men. Young men who for reasons of conscience do not wish to take arms have the right to be engaged in civic service, alternative to military service, consisting in community service with private and civic bodies which have applied for the possibility to use conscientious objectors in their activities. Conscientious objection has been a very significant experience in Italy, through which many young men have become acquainted with highly topical issues, and have been engaged in innovative sectors such as environmental protection and care-providing services. Through these activities, they have learned to give value to caring and personal relations skills which are typical of women's culture and had traditionally been considered a women's prerogative.

189. The new government bill has introduced a new form of civic service, which can be chosen by young men who prefer this alternative form to fulfill their duty of defending the country, independently of whether or not they are conscientious objectors. This approach is in line with the perspective of a new Defence Model, which involves reduced conscription and a larger professional component within the Armed Forces, related to their new tasks which are increasingly focused on peace keeping and peace making. This bill has been criticised on some points, particularly as it does not contemplate fully equal status between military and civic service, especially as concerns length of service.

190. As concerns women, there has been some debate on the possibility of introducing mandatory participation of all girls in civic service, in line with the principle of full equality between women and men. The government, however, in agreement with the Minister for Equal Opportunities, decided that introducing new forms of mandatory service would be contradictory at a time when greater space is being given to individual motivations of young men towards both military and civic service, and when the draft component of the Armed Forces is being reduced. The bill hence introduces girls' participation in civic service on a voluntary basis. The Office of the Minister for Equal Opportunities, together with the National Commission for Equality and Equal Opportunities, is committed to foster a vast participation of young women in the first experiences of civic service, as an opportunity to express assert their cultural potential, individual determination and social skills.

191. The second new point introduced in the government bill and completing the framework of formal legal equality between women and men concerns women's access to military careers. This issue has been extensively discussed in the country, from different perspectives. Supporters of women's exclusion from the Armed Forces have resorted to traditional arguments based on women's physical inferiority, on the need for solidarity within the Armed Forces allegedly ensured only by their one-gender nature, on operational difficulties related to the fact that in any case women could not be engaged in combat. By contrast, peace associations and part of the feminist movement have stressed the risk of subordinate coopting of women into military structures strongly characterised by male-dominated ideology, and made for war.

192. Evidence against the former arguments is represented by experiences in many European countries and in the US, where women have long been part of the Armed Forces, including operational corps, though not always in combat units. As to the latter areas of criticism, such risks do exist, but cannot be solved through perpetuating the ban on women's access to military careers. A study on the letters sent by hundreds of girls who have asked to join the Army (some of whom are members of a specific association, called ANADOS, have shown that their motivations are real and complex. These girls consider military careers not only as a possible employment opportunity, but also as a possibility for self-fulfillment in a new sector, considered skilled and socially useful. Risks could be minimized ensuring access in relevant numbers and to higher positions as well.

Article 16. Family, procreation and parental responsibilities

1. The Principle of Equality in Marriage and Parental Responsibility

193. In Italy, men and women have the right to freely contract marriage and choose their spouses. The family law reform, which was enacted in 1975, granted to women full equality of rights in marriage. In particular, the 1975 law established that husband and wife are entitled to the same rights and duties through marriage, including the duty of providing moral and material assistance and collaborating in the best interest of the family (Art. 143, Civil Code). The spouses' relationship is governed by the irrevocable principle of consensus. Husband and wife decide together on their family lifestyle and establish their family residence by mutual consent (Art. 144 C.C.). In parenthood, mother and father are equally responsible towards their children, and have the obligation to support, raise and educate their children, taking into account their natural inclinations, abilities and aspirations (Art. 147 C.C.). A father or a mother who recognizes a child born out of wedlock contracts the same obligations towards this child as towards a legitimate child (Art. 261). Hence, children born out of wedlock have exactly the same rights as legitimate children.

194. The principles embodied in the 1975 reform stemmed from the profound changes in gender relations and, more in general, in societal custom and awareness which had evolved in those years. A law on divorce had been passed five years earlier (1970) and was subsequently confirmed by popular referendum in 1974. Family law reform, in its turn, helped bring about further change. The principle of equal rights of spouses, which was considered highly innovative when it was first set forth in law, has little by little been realized in practice, though not without some contradiction, especially due to the unequal allocation of caring duties in the family.

195. In the meantime, women have achieved equal rights in decision-making on such an important issue as the management of family finances, a sphere from which they had traditionally been excluded. The legal provision for the community of property between man and wife which was introduced in the 1975 reform - according to which even women without

any personal are entitled to co-ownership and an equal share in all assets acquired during marriage, unless otherwise stipulated by the spouses - was decisive in bringing this new reality to pass. This marriage law provision was a true breakthrough as for the very first time it granted explicit recognition to the caring work of women. It was also an effective tool in the material realization of the principle of equal rights.

2. Families

196. The reform of family law which was generated by a profoundly changing society, brought about other changes in turn. Law makers in 1975 had prefigured a family based on affective bonds which today is a reality. This family model is based on the quality of the emotional bonds uniting its family members, rather than on the coercive character of a formal marriage tie. Husband and wife alike, respecting their children's inclinations and aspirations, have the duty to search continually for the right balance between a family's need for stability and the freedom of family members. Family patterns have also grown increasingly diversified, as has been observed in all other western countries. In 1995-96, singles were over 4.000.000, for the most part elderly women. Singles between 18 and 39, however, were 17.7% of single-person households. The percentage of cohabitants is growing, but it is still small compared to married couples (about 2%). The highest numbers are among younger couples, people with higher education, and among couples where the woman has a job.

197. Whatever family pattern they choose, however, men and women continue to make a major value investment in these new families based on affective bonds. There would appear to be a contradiction between this statement and what is Italy's most striking population trend in the last few decades, namely its sharply declining birthrate. But this contradiction is only apparent. It is certainly true that the number of births in Italy dropped from 930,000 in 1961 to 500,000 in 1991, (though there has been a certain stabilization of this downward trend in the last four years, with 540,000 births registered in 1994). Italy is undoubtedly one of the countries in the world with the lowest birth rate. Yet closer scrutiny of this trend reveals some interesting facts. First, the downward trend began with a drop in the number of large families, and in the last few years there has been a marked decrease in the number of second children and a dramatic fall in the number of families with three or more children. Interestingly, however, there are very few childless couples, and the number of these couples is actually decreasing. This means that the fall in the birthrate is not due to higher infertility levels nor to a lesser desire to have children.

198. As in case of all large-scale social phenomena, the causes are manifold. Women certainly have a hard time combining their caring work at home with paid work in the labor market, especially when they lack adequate social services. While this is certainly a primary factor, more careful attention to the children's development needs also seems to have great importance. In other words, the current understanding of parental responsibility leads families to limit the number of children.

199. Unlike other European countries, most children are born to married couples. The percentage of children born out of wedlock currently stands at only 7.8%. Though the trend is increasing (6.7% in 1992, 7.4% in 1993), the percentage is still much lower than that registered in other European countries.

3. Separation, Divorce, Child Custody

200. The vitality of the family institution is only apparently belied by the growing number of separations (45,754 in 1992, 51,445 in 1994, and 52,323 in 1995). The rate of separations in 1995 was 158.4 per 1,000 marriages. Official estimates based on marriages contracted in the last ten years reveal that separations tend to occur in the first years of marriage. The number of consensual separations is higher in more recent marriages. Divorces are also more numerous, passing from 25,997 in 1992 to 27,038 in 1995. Half of the separated couples do not file for a divorce.

201. Though the relative weakness of the conjugal bond is typical of all industrial societies, the statistics for Italy should be read in the light of the special vitality of the family institution in this country. As in the case of declining birthrates, the statistics on separations could also be interpreted as a sign of a greater emotional investment in marriage, following on the demise of patriarchal family patterns based on the power of the male breadwinner. The enhanced economic independence of women, along with their greater self-awareness and freedom, have radically transformed the terms on which gender relations were founded in traditional family models. With men no longer being the sole income-earners, while women were relegated to the role of housewife and mother, family models have been transformed into a difficult search for liberating and emotionally-rewarding relationships. The fact that separations tend to occur in the early years of marriage suggests that the breakage is not so much linked to the difficulties of living together but more to dissatisfaction generated by very high expectations.

202. Italian law provides that in the case of separation and divorce the spouse lacking adequate income has the right to receive alimony from the other spouse. In all cases, following separation and divorce, both parents have the obligation to support and educate their children. At the time of separation, the judge decides which of the two spouses is more suitable for custody of the children. In the vast majority of cases, children are assigned to their mother (92.1% in 1994). Consequently, there are 1,208,000 single-parent families where the single parent is a mother, and only 229,000 families where the single parent is a father. Even in the case in which custody is assigned to only one of the parents, both parents continue to have parental authority (patria potestas) and must take the relevant decisions for their children together. However, only the parent having custody exercises parental authority and takes the decisions concerning the children's daily lives (Art. 155 C.C.).

203. It should be noted that these single-parent families have generally proven to be able to provide a suitable educational environment for the children, though they are often heavily at risk from a financial viewpoint. Apparently, 40 per cent of former husbands who have the obligation of paying alimony and child support - as they do not have custody and are generally the sole income-earners of the family, or in any case have a higher income than their wife - fail to meet their financial obligations. In the period of time between filing for a separation and the judge's ruling, many of these husbands tend to conceal income and assets, for instance by transferring property titles to figureheads, so as to simulate poverty and justify their failure to pay alimony and child support in advance.

204. Though the failure to pay alimony qualifies as a criminal offence, court rulings in this field are slow to come and are often ineffective. New regulations need to be devised, to make it more difficult for estranged spouses to fraudulently hide property. Procedures for the coercive recovery of payments due for child support should also be made easier, so that separated women may have the security and serenity they need, especially when they are raising children. The issue of alimony to childless women will become increasingly unimportant, as more and more women in the younger generation hold jobs.

205. The rules on child custody and child support are criticized by several associations of

fathers, who protest against their marginalization and claim their right to a more relevant role in the parenting relationship. A number of bills on this issue currently lie before the Italian Parliament. The attention of fathers to their parental care and responsibilities is a new development in Italian society and certainly a very welcome one. The forthcoming reform will most probably give more room to joint custody, which may be assigned by the judge when the divorced parents are not sharply in conflict. Generalized joint custody would not, however, be without risks, because in those situations where the estranged spouses experience bitter conflict, instead of reinstating the value of the father's role, joint custody would end up simply giving the father the power of decision and veto, while the children would continue to live chiefly with their mothers.

4. Procreation-linked Decisions

206. In an important sentence issued in 1975, the Constitutional Court paved the way to legislative reform on abortion, by upholding the principle of ensuring a balance between the interests of the mother and those of the unborn child. A set of rules written into the Criminal Code then in force - which had been drafted during the Fascist period - punished abortion as a crime against the integrity of the race, even in the case of a consenting woman.

207. Law 194, which was approved in 1978, explicitly abrogated the legislation previously in place. The new law declared the principle that human life should be protected from its conception and set out rules for the social protection of motherhood. Abortion is now consented in the first 90 days of pregnancy, whenever its continuation would seriously endanger the woman's physical or psychological health, also in relation to her economic, social or family conditions, or to the circumstances in which conception occurred. Healthcare and social support centres for women and families ("Consultori") have the duty to help the woman eliminate the causes that led her to the decision to terminate her pregnancy. Counselling may also be extended to the father of the conceptus, if the woman agrees. In all cases, a seven-day period of reflection is mandatory. If the woman confirms her decision after this period, then she may apply for an abortion on the basis of the documents issued by the "Consultorio", which certify compliance with the procedure set forth by law. After the first 90 days, abortion is allowed only in the case of a serious threat to the woman's life, or fetal anomalies or malformations which would severely endanger the physical or psychological health of the woman.

208. Law 194 enabled women's self-determination, assigning them the final decision on whether or not to become mothers. This approach has produced excellent results in combating illegal abortion, which was a serious threat to the life and health of women in the past. Since the enactment of the law, the number of voluntary abortions has dropped conspicuously (i.e. from 209,000 in 1980 to 134,137 in 1995). In the same years, the abortion rate per 1,000 women in fertile age fell from 15.3 per 1,000 in 1980 to 9.3 per 1,000 in 1996. Statistical records show an increase in the number of abortions until 1983, but this was due to the emergence of what had previously been an illegal procedure. The trend has declined steadily from 1984 till today. There has been an effective reduction in the abortion rate, which is particularly evident in the 25-29 year age bracket. In 1979, immediately following the enactment of Law 194, illegal abortions were estimated at 350,000 per year. A study conducted by the Superior Health Institute suggested that legal abortions amounted to 234,000 in 1983, with illegal abortions totalling roughly 100,000. In 1994, legal abortions dropped to slightly under 143,000, whereas illegal abortions were estimated at 45,000, 70 per cent of which in the South of the country. This means that legal abortions fell by 39% and illegal abortions by 35%. This overall decline may be due to an improvement in women's ability to control reproductive choices, thanks to better information on reproduction and more widespread contraception. Increasing levels of schooling have been correlated with lower abortion rates.

209. Law 194 provides the option for medical and non-medical staff to refuse to participate in abortion procedures on grounds of conscientious objection. While accurate statistics are lacking, official estimates indicate that roughly 60% of gynecologists, 50% of anesthesiologists, and little under 50% of paramedical staff have registered as conscientious objectors. It is not at all infrequent for the totality of staff in some public hospitals to be conscientious objectors. In a number of regions, especially in the South, this prevents the implementation of the law and forces many women to turn to health care facilities in other regions. The higher percentage of illegal abortions in the South of the country is undoubtedly due to this malfunction.
Nonetheless, despite the many difficulties, it can be confidently stated that abortion is no longer used as a form of birth control. However, since the resort to abortion is still caused by a lack of knowledge concerning birth control methods, it is imperative to extend the network of Consultori created under Law 405/75. These centers total a mere 2,632, which means that there are only 1.8 of them per 10,000 women in fertile age (15-49 years). This figure is obviously inadequate, especially considering the uneven spread of services throughout the country: while Umbria boasts 4 centers per 10,000 women and Valle d'Aosta 6.2, regions such as Sicily, Calabria and Puglia have only 1.4, and Campania trails behind with only 1 center per 10,000 women.

210. Law 194/78 has been at one and the same time an effective instrument against illegal abortions and a good mediation among different cultural and political trends represented in Parliament. Despite this, challenges against this law, aimed at limiting women's self-determination, are a recurrent feature. At the same time, there is debate in the country on the idea of completely depenalising abortion, developed within some groups of the women's movement.

211. The last few years have witnessed a lively debate on bio-ethical issues, revolving round the development of assisted reproduction techniques, such as artificial insemination with partner or donor semen, the insemination of women beyond fertile age, surrogate motherhood, crioconservation and experimentation on embryos. Several bills have been submitted to Parliament, some of which propose the adoption of a charter on the rights of the embryo. The "pro-life" movement has promoted a collection of signatures calling for the attribution of the legal status of personhood to an embryo from the first moment of conception.

212. Until now, lacking legislative regulations, private centres have practiced all forms of assisted reproduction, irrespective of whether it is required by individual women or by couples. In public hospitals, on the contrary, following a Ministry of Health circular only artifical insemination required by married couples is allowed, and only in cases of sterility and using the husbands own semen. These are the most restrictive provisions existing in the whole of Europe. Recently the professional code of conduct of the medical profession has again listed a number of banned practices, which no longer include the ban on insemination with donor semen or the exclusive eligibility of married couples but maintains the ban on insemination not involving heterosexual couples

5. Adoption

213. Law 184 of May 4th 1983 contained a whole range of provisions on the adoption of abandoned children. After a period of pre-adoption custody during which the child's blood relations may raise objections the adoption may legally be declared. Any link between the child and his/her family of origin is then severed. Only married carried are eligible to adopt children except for explicitly stated cases. The law also contemplates temporary custody which can be declared when children are temporarily abandoned. To avoid situations where such custody may result in unfounded hopes on the part of temporary guardians and to stress the specific solidarity-

oriented nature of this provision, the law openly states that the child must be entrusted to couples with children.

214. Because eligibility conditions for adoption are very strict and the consequences of a declaration of adoption are practically irreversible, there is major disproportion between the high number of applications and the limited number of children who can be adopted. Many couples resort to international adoption, but in this field as well there is disproportion between the number of applicants and the adoption rulings enacted.

215. The government has prepared draft legislation to reform this law harmonising it with the content of the Hague Convention of May 29th 1993. This is aimed at improving the position of people having recourse to international adoption procedures, for example introducing the right to take leave from work; procedures for such adoptions are made more transparent, thus ensuring greater protection for foreign children from the dangers of malpractices. The condition of these children is legally harmonised with that of Italian adopted children.

216. Though the Hague Convention mentions both couples and individuals as eligible applicants, the ratification legislation, drafted by the Italian government, has chosen to use the expression "Italian citizens who have the requisites prescribed by law, leaving open the possibility of future changes in basic adoption legislation.

217. A further problem concerns the age requisites for applicants, not mentioned by the Hague Convention, but foreseen by Italian legislation as being at least 18 years and not more than 40 years difference between the ages of the adoptive parents and the child. The government bill leaves the regulation of this to further legislation, although there is pressure from many parts to amend these provisions since marriage and parenthood now occur at a later age and women often apply for adoption after many failed attempts at pregnancy.